BOSTON PUBLIC LIBRARY
3 9999 06307 938 6

BOSTON
PUBLIC
LIBRARY

TRIAL

OF

THE MAJOR WAR CRIMINALS

BEFORE

THE INTERNATIONAL MILITARY TRIBUNAL

NUREMBERG

14 NOVEMBER 1945 — 1 OCTOBER 1946

PUBLISHED AT NUREMBERG, GERMANY

1948

This volume is published in accordance with the direction of the International Military Tribunal by the Secretariat of the Tribunal, under the jurisdiction of the Allied Control Authority for Germany.

D804
.G42
I55

Vol. 16

VOLUME XVI

OFFICIAL TEXT

IN THE

ENGLISH LANGUAGE

PROCEEDINGS

11 June 1946 — 24 June 1946

CONTENTS

One Hundred and Fifty-second Day, Tuesday, 11 June 1946,
Morning Session 1
Afternoon Session 32

One Hundred and Fifty-third Day, Wednesday, 12 June 1946,
Morning Session 61
Afternoon Session 106

One Hundred and Fifty-fourth Day, Thursday, 13 June 1946,
Morning Session 141
Afternoon Session 160

One Hundred and Fifty-fifth Day, Friday, 14 June 1946,
Morning Session 204
Afternoon Session 239

One Hundred and Fifty-sixth Day, Monday, 17 June 1946,
Morning Session 263
Afternoon Session 288

One Hundred and Fifty-seventh Day, Tuesday, 18 June 1946,
Morning Session 312
Afternoon Session 338

One Hundred and Fifty-eighth Day, Wednesday, 19 June 1946,
Morning Session 378
Afternoon Session 417

One Hundred and Fifty-ninth Day, Thursday, 20 June 1946,
Morning Session 447
Afternoon Session 477

One Hundred and Sixtieth Day, Friday, 21 June 1946,
Morning Session 513
Afternoon Session 551

One Hundred and Sixty-first Day, Saturday, 22 June 1946,
Morning Session 592

One Hundred and Sixty-second Day, Monday, 24 June 1946,
Morning Session 621
Afternoon Session 646

ONE HUNDRED AND FIFTY-SECOND DAY

Tuesday, 11 June 1946

Morning Session

[The Defendant Seyss-Inquart resumed the stand.]

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): Mr. President, I should like to clear up the matter that I raised yesterday with respect to the notes of the conference between this defendant and Hitler. I had the investigation made and I think these are the facts. Apparently, Colonel Williams of our staff, who interrogated this defendant late in October, was handed these notes by the defendant; and somehow or other they never did reach our files and have been misplaced. So the defendant was quite right in saying that he turned them over, but I think in error in saying that he turned them over to me.

DR. GUSTAV STEINBAUER (Counsel for Defendant Seyss-Inquart): Yesterday we had reached one of the most important points in the Indictment, the question of the evacuation of Jews from the Netherlands. Witness, what did you do when you learned of this removal of the Jews from the Netherlands? Did you write any letters?

ARTHUR SEYSS-INQUART (Defendant): Yesterday I stated that I had people sent from the Netherlands to the Auschwitz Camp in order to ascertain whether there were accommodations and, if so, what kind. I have given you the result of this inspection. I asked the Security Police, that is, Heydrich, whether it would not be possible for the evacuated Jews to keep up correspondence with the Netherlands. This concession was made. For about three-quarters of a year or a year correspondence was maintained; not only short post cards but long letters were permitted. I do not know how the camp administration did this; but the letters were identified as authentic by the addressee. When the number of letters dropped off later—it never stopped completely—the Security Police told me that the Jews in Auschwitz now had fewer acquaintances in the Netherlands, meaning other Jews, because most of them were already in Auschwitz.

DR. STEINBAUER: Witness, did you turn to Bormann, too?

SEYSS-INQUART: Yesterday I stated that, after learning of Heydrich's order, I requested Bormann to inquire of the Führer whether Heydrich actually had such unlimited power. Bormann confirmed this. I admit frankly that I had misgivings about the evacuation.

DR. STEINBAUER: Did you do anything to alleviate these misgivings?

SEYSS-INQUART: My misgivings—which increased in the course of the war—were that the hardships of the war would be a heavy burden, above all for the Jews. If there were too little food in the Reich, the Jewish camps in particular would receive little, while probably the Jews would be treated severely and for comparatively slight reasons heavy punishment would be imposed upon them. Of course, I also thought of the unavoidable tearing apart of families, to a certain extent, at least, in the case of labor commitment. That also was the reason why we brought forward difficulties for 3 or 4 months.

The decisive argument, however, was the declaration of the competent authority, the Security Police, that in case of a landing attempt the Jews were not to be in the immediate theater of operations.

I ask the Court to consider that the most important and most decisive motive for me was always the fact that the German people were engaged in a life-and-death struggle. Today looking at it from another perspective the picture looks different. At that time, if we told ourselves that the Jews would be kept together in some camp, even if under severe conditions, and that after the end of the war they would find a settlement somewhere, the misgivings caused by this had to be cast aside in view of the consideration that their presence in the battle area might weaken the German power of resistance.

In the course of 1943 I spoke with Hitler and called his attention to this problem in the Netherlands. In his own convincing way he reassured me and at the same time admitted that he was thinking of a permanent evacuation of the Jews, if possible, from all of Europe with which Germany wanted to maintain friendly relations. He wanted to have the Jews settled on the eastern border of the German sphere of interest insofar as they were not able to emigrate to other parts of the earth.

At the beginning of 1944 I spoke with Himmler, whom I happened to meet in southern Bavaria. I asked him in a determined manner about the Jews in the Netherlands. The fact that our Eastern Front was being withdrawn meant that the camps would be in the battle area in the course of time, or at least in the rear

area. I was afraid that the lot of the Jews would become even more serious then. Himmler said something to the following effect: "Do not worry; they are my best workers." I could not imagine that the Jews capable of labor were working while their relatives were being destroyed. I believed that in that case one could expect nothing else than that every Jew would attack a German and strangle him.

DR. STEINBAUER: Witness, so you did learn of these evacuations? In your capacity as Reich Commissioner did you help carry out these evacuations through your administration?

SEYSS-INQUART: Since the evacuation was a fact, I considered it proper to concern myself with it to the extent that was possible for me as Reich Commissioner. I gave my deputy in Amsterdam, Dr. Boehmke, power to carry out the evacuation, to exercise control, and to take steps if excesses occurred other than unavoidable difficulties, or to report such to me. Dr. Boehmke was in constant opposition to the so-called Central Office for Jewish Emigration. We had to intervene again and again, but I am convinced that we did not put an end to all hardships.

The Jews were collected in the Westerborg Camp. When the first transports left, I received a report that the trains were overcrowded. I vigorously remonstrated with the commander of the Security Police and asked him to see that the transport was carried out in an orderly manner. The Netherlands Report states that at the beginning the transports were made under tolerable conditions; later, conditions generally became worse. But that such excessive overcrowding of trains occurred as indicated in the report did not come to my knowledge. It is true that the Security Police made it very difficult to have the execution of these measures controlled. At the suggestion of some Dutch secretaries general, especially Van Damm and Froehlich, I effected an exception for a number of Jews. One could effect individual exceptions; the basic measures could not be changed. I believe that the number of exceptions is greater than indicated in the Netherlands Report, at least according to my reports.

These Jews were, in the final stage, in the Westerborg Camp. When the invasion began Himmler wanted to remove them. Upon my objections this was not done. But after the battle of Arnhem he removed them, as he said, to Theresienstadt; and I hope that they remained alive there.

DR. STEINBAUER: Did you also release property on this occasion?

SEYSS-INQUART: These Jews who were made exceptions retained control of their property.

DR. STEINBAUER: In closing this chapter I should like once more to call the attention of the Tribunal to Document 1726-PS, USA-195, in the document book of the Prosecution. This document sums up the whole Jewish problem in the Netherlands, and on Page 6 it gives all the agencies which dealt with the Jewish problem. Under Number 3 you will find the General Commissioner for Security, the Higher SS and Police Leader H. Rauter, General of Police. Under Number 4 is the Central Office for Jewish Emigration, Leader Aus der Funte—under the "General Commissioner," as under 3. The report says about this:

"Apparently an organization for Jewish emigration; in reality, an organization to rob the Jews of their rights, to segregate them, or to deport them."

This was the most important office, which was directly under Himmler's Higher Police Leader, and not under the defendant.

SEYSS-INQUART: I should like to point out that Rauter functioned as Higher SS and Police Leader in this case, and not as "General Commissioner for Security," for the measures were carried out by the German Police, and not by the Netherlands police.

DR. STEINBAUER: The witness in a speech also spoke about his views on the Jewish problem at one time. The Prosecution has submitted a part of this speech.

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): Dr. Steinbauer, you are putting this Document 1726-PS to the witness, which contains a historical statement, apparently. Does the witness agree that the historical statement is accurate?

Do you, Defendant, agree that this historical statement is accurate?

SEYSS-INQUART: May I see the document?

[The document was handed to the defendant.]

DR. STEINBAUER: It is Appendix 2.

THE PRESIDENT: You see, Dr. Steinbauer, you put forward the document and it is for you to ascertain from the witness whether he agrees with the document or whether he challenges it.

SEYSS-INQUART: The presentation of facts is accurate, except for the addition of the correction which I made with reference to the "General Commissioner for Security."

THE PRESIDENT: There are certain passages in the document which your attention ought to be drawn to: February 1941, for instance. You have the document before you, Dr. Steinbauer?

DR. STEINBAUER: Yes.

THE PRESIDENT: Will you look at the last entry under the heading February 1941? Do you see that?

DR. STEINBAUER: Yes.

THE PRESIDENT: You have to put that to the witness. He said that the facts are accurate.

DR. STEINBAUER: Witness, you will find under "February 1941" a statement—I have only the English here—saying that Jews were arrested and then sent to Buchenwald and Mauthausen.

SEYSS-INQUART: I discussed this case yesterday. That was a measure at the direct order of Himmler, which only came to my knowledge after it had been carried out and against which I protested. To my knowledge, mass deportations to Mauthausen did not occur again after that.

THE PRESIDENT: Then what I understand the defendant to say is that that document is accurate except where you referred to under the Numbers 3 and 4, on the last page. Is that right?

SEYSS-INQUART: In my testimony yesterday I confirmed the orders contained in this document, but not all the details of the actual events.

DR. STEINBAUER: The presentation on Page 6 of the individual agencies is correct?

SEYSS-INQUART: The actual presentation, too, is basically correct. Yesterday I spoke also of the burning of synagogues and of the prevention of the destruction of synagogues in The Hague and Amsterdam.

THE PRESIDENT: Very well, Dr. Steinbauer. Go on.

DR. STEINBAUER: Now, I should like to refer to Document 79, Page 203, from Exhibit Number USA-708. That is a speech which Seyss-Inquart made on the Jewish question. The Prosecution submitted this document. Since it needs a little explaining I shall begin by reading the last sentence:

> "The only thing we can discuss is the creation of a tolerable transitional state while maintaining our point of view that the Jews are enemies, and thus applying every precaution customarily observed against enemies. As regards the time when Germany will not be here as an occupational force to maintain order in public life, the Dutch people will have to decide for themselves whether they want to endanger the comradely union with the German people for the sake of the Jews."

Witness, I should like to ask you about this speech. Were you thinking of the complete elimination and destruction of the Jews?

SEYSS-INQUART: I never thought of that at all, and in this speech I was not even thinking of evacuation. At that time I held

the point of view that the Jews should be confined in the Netherlands, as is done with enemy aliens, for the reasons which are given in the preceding part of this speech, which the American Prosecution has submitted. The idea still prevailed of treating them as enemy aliens, even though Englishmen, for example, were also transported to the Reich. I have already pointed out that that viewpoint later changed to conform to the measures against Jews, which were customary in the Reich.

DR. STEINBAUER: We now come to . . .

THE PRESIDENT: What is the date of the speech?

SEYSS-INQUART: This speech is of March 1941. Only once again did I express my point of view, and that was on 20 April 1943, when I made the somewhat, I admit, fantastic suggestion that all belligerent powers should pool 1 percent of their war costs in order to solve the Jewish problem from the economic standpoint. I was thus of the opinion that the Jews still existed; incidentally, I never called the Jews inferior.

DR. STEINBAUER: I believe I can conclude this topic and go on to another charge which is made against you—violations of international law, the subject of spoliation.

Who confiscated raw materials and machinery in the Netherlands?

SEYSS-INQUART: The initiative for this, and the extent to which it was to be done, originated with the Reich offices. The operations were carried out either by my offices, by the Wehrmacht, by the armament inspection offices, or even by the Police and the Waffen-SS; but from the middle of 1944 on they were carried out in the main by the office of the Armament Minister, which was also my office, and by the field economic commands of the High Command of the Army. At that time control was extremely difficult.

DR. STEINBAUER: What was your own attitude toward this problem?

SEYSS-INQUART: I was of the opinion that the provisions of the Hague Convention for Land Warfare applying to this were obsolete and could not be applied to a modern war because the labor potential of the civilian population is at least as important as the war potential of the soldiers at the front. How much could be demanded seemed to me to depend on the conditions prevailing in one's own country. These doubtlessly varied in each country. I therefore endeavored to obtain a statement from Reich Marshal Göring to the effect that the Dutch were to live under the same conditions as the German people. This promise, to be sure, was not kept completely in the ensuing period.

DR. STEINBAUER: How was the confiscation carried out? By what authorities?

SEYSS-INQUART: Until 1943, the Dutch offices carried out our assignments. The technical experts had to provide me with factual justification for confiscations, since I was not familiar with such matters. I took steps when complaints reached me. For example, I prevented the removal of margarine works in Dordrecht and of a brand new electrical works in Leeuwarden.

Reich Minister Speer issued an important order that only the machines from factories which delivered more than one-half of their total production to the Reich, for example, Phillips in Eindhoven, could be transferred to the Reich.

DR. STEINBAUER: The French Prosecution charges that you favored the black market. What do you have to say about this?

SEYSS-INQUART: We combated the black market from the beginning. It was therefore always a so-called "grey market" with us. I had prohibited the purchase of food from the current production and likewise of other important consumer articles on the black market. Every case was investigated by the competent offices in conjunction with the Dutch offices. If it was a business which had been forbidden by me, the goods were confiscated and turned over to the Dutch offices. These measures were 100 percent for the benefit of the Dutch, for what the German Reich wanted officially it got anyhow. I see from the document that the turnover in the Netherlands was the lowest anywhere. The figures are deceptive, though, since prices on the black market were several times higher than those on the normal market, so that the actual amount of goods was much lower.

DR. STEINBAUER: In Document 1321-PS the charge is made that you turned medical instruments over to the SS.

SEYSS-INQUART: That is true. Please judge that in connection with my general statements. The SS needed microscopes for its hospitals at the front, for all its hospitals which had been destroyed by bombings. In the laboratories of the University of Utrecht there were microscopes which were not being used. I had the case investigated by my office and what seemed dispensable confiscated. In this connection I refer to a case which was much more important for the Dutch. The Reich wanted to tear down the Kammerlingh Institute at Leyden, which is one of the most famous low-temperature research institutes in the world. I believe only the Soviets and the Americans have one as well, especially suitable for atomic research. I prevented the tearing down of this institute which would have meant an irreparable loss for the Netherlands.

Experiments which seemed necessary were carried out by Professor Heisenberg himself in Leyden.

DR. STEINBAUER: Document 1988-PS, RF-130, charges that you had the rolling mill in Ymuiden removed.

SEYSS-INQUART: This rolling mill in Ymuiden was built up after May 1941 by a German firm, which in exchange was given a partnership in the blast furnace joint stock company. The electrical installations of these works were repeatedly destroyed by the English, not without the aid of the intelligence service of the Dutch resistance movement. In my opinion the Reich Marshal was right in ordering that they be moved to the Reich. This was done. Why no indemnity was paid I do not understand, for I had issued an order that all such demands had to receive full indemnification, but perhaps the German concern relinquished its partnership.

DR. STEINBAUER: The charge is further made that you turned over the essential transportation means of the Netherlands to the Reich.

SEYSS-INQUART: I could not in substance dispose of the means of transportation; that was the concern of the transport command of the Armed Forces. Once I merely took part in demanding 50,000 bicycles—there were 4,000,000 bicycles in the Netherlands—for the mobilization of troops in the Netherlands themselves.

DR. STEINBAUER: Another charge is that you had art objects removed from public museums and collections.

SEYSS-INQUART: I most painstakingly took care that famous art objects, especially pictures, in the Dutch public museums of Amsterdam, Mauritshuis, and so forth were especially protected. But it is possible that loans to these museums which belonged to Jewish persons were claimed in connection with the liquidation of Jewish property. There was just one case. A Kruller Foundation existed in the Netherlands which was willed to the Netherlands State. Without my permission three pictures from this foundation were taken to the Reich, for which I later concluded a contract for sale with the museum authorities. I endeavored to replace these pieces for the museum. They procured some beautfiul Van Goghs and a Corré from the German treasure list, and the head of the museum once told me that the new pictures fitted better into the museum than the old ones. The famous paintings were in a bomb-proof shelter on the Dutch coast. When the coast was declared a fortified area, I induced the Dutch authorities to have a new shelter built near Maastricht. The pictures were taken there, always under Dutch care. No German had anything to do with it. In the fall of 1944 Dr. Goebbels demanded that the pictures be taken to the Reich. I definitely refused this and had reliable guards placed at the

shelter, and also sent an official from the Dutch Ministry who was authorized to hand over the pictures to the approaching enemy troops. I was convinced that the Dutch Government in England would see to it that these pictures remained in the Netherlands.

DR. STEINBAUER: Did you yourself acquire any pictures?

SEYSS-INQUART: I did not buy any pictures for myself in the Netherlands, except for two or three small etchings by a contemporary artist. As Reich Commissioner I bought pictures by contemporary artists at exhibitions when I liked them and when they seemed worth the price and were offered for sale. I also bought old pictures and gave them to public institutions in the Reich, especially to the Museum of Art History in Vienna and the Reich Governor's office in Vienna. They were all purchases on the open market, as far as I am informed. Among them was a picture attributed to Vermeer, although it was contested. On the other hand I acquired an authentic Vermeer for the Dutch State by preventing its sale to the Reich.

THE PRESIDENT: Dr. Steinbauer, there is no specific charge against this defendant of having bought pictures.

DR. STEINBAUER: It was mentioned in the trial brief. May I continue? Let us conclude this question.

THE PRESIDENT: We do not want details about it. It is sufficient if he told us that he paid for the pictures. He need not give us details about the pictures.

DR. STEINBAUER: I will go on to the next question. I submit to you Document RF-136. It describes the confiscation of the property of Her Majesty, the Queen of the Netherlands.

SEYSS-INQUART: To tell the full truth, I must add something to the previous question. Pictures and art objects from Jewish fortunes or from enemy fortunes, when there was a reason for it, were liquidated and sold in the Reich. In this connection a very lively free trade developed with the participation of the Dutch art dealers, doubtless favored by the free transfer of foreign currency.

DR. STEINBAUER: Now I should like to go on to the question of the royal property, RF-136. What do you know about the order for the liquidation of this property?

SEYSS-INQUART: I myself ordered this liquidation. In the Netherlands we, of course, had an order to confiscate enemy property, as in all occupied territories. When we came to the Netherlands, the royal property was merely placed under trusteeship, without any steps being taken to seize it. Right after the outbreak of the campaign in the East, the Queen of the Netherlands spoke personally on the radio in a very antagonistic manner, severely

accusing the Führer and making an express appeal for active resistance. In view of this state of affairs the property of any Dutch citizen might have been confiscated. I therefore decided to proceed in this case in the same way in order to prevent an excessive extension of this measure as had been demanded of me, while having the conviction that I could not make any exceptions. I myself, as I said, signed the order for confiscation, in order not to implicate anybody else.

DR. STEINBAUER: What instructions did you give in the course of the liquidation?

SEYSS-INQUART: I immediately issued liquidation orders which in practice prevented the liquidation being carried out. I ordered estates or castles to be turned over to the Netherlands State—with the exception of one apartment house, I believe—and likewise bonds and securities and archives, and that all historic or artistic or otherwise valuable furniture be selected by a Dutch commission so that the Netherlands State could take it over. The commission included almost everything at all possible in its list. I realized that and did not strike out one piece. In particular, I had the historical installations at Soestdyk and Huis ten Bosch turned over in full, although Berlin wanted the Huis ten Bosch installation as a memorial to the people of Brandenburg. Finally, even the personal things . . .

THE PRESIDENT: I do not think that the defendant need make this quite so detailed, Dr. Steinbauer. He has made the point that some of the things were turned over to the Netherlands State.

DR. STEINBAUER: Then I should like very briefly to ask in this connection: Do you know to what extent the property was actually liquidated?

SEYSS-INQUART: I had a survey given to me. It was reported to me that 3, or at the most, 5 percent of the property was actually liquidated.

DR. STEINBAUER: Thank you, that is enough.

SEYSS-INQUART: The proceeds were turned over to a fund for the repairing of war damages.

DR. STEINBAUER: Now I shall proceed to the question of the confiscation of factories and raw materials. Who undertook this confiscation?

SEYSS-INQUART: I may refer to my previous statements. From the late summer of 1944 on, this was done primarily by the economic field commands. There are individual documents available with notations referring to me. There were many unauthorized confiscations. People came from the Reich with trucks and began

to take away machinery. Together with the Armed Forces commander and the Higher SS and Police Leader I ordered that the strictest measures be taken against these methods.

DR. STEINBAUER: In this connection I should like to refer to two documents which I submitted but which I shall not read in order to save time. These are Documents Number 80 and 81, Pages 205 and 208. It can be seen from these that this was a task of the Armed Forces; that these confiscations were all carried out by the occupation forces.

In Document RF-137, Witness, the charge is made that the removal of furniture and clothing from Arnhem was sanctioned by you.

SEYSS-INQUART: The charge is correct. The situation was as follows: The front was directly south of Arnhem. There were three or four resistance lines built in Arnhem proper. The city had been completely evacuated. It was being shelled and installations and goods in Arnhem were gradually being ruined in the course of the winter. The Führer ordered at that time through Bormann that textiles, particularly, be brought from the Netherlands for German families who had suffered bomb damage. Without any doubt the furniture and the textiles in Arnhem would probably either have been looted or would have been ruined by the weather or would have been burned in a battle at Arnhem. Although it was not in my territory but at the front and the executive power thus lay with the Armed Forces, I gave my approval that under the circumstances furniture and textiles be brought to the Ruhr area. I ordered at the same time that the items be listed for indemnification claims. I believe that Dr. Wimmer can confirm this as a witness.

DR. STEINBAUER: I believe we can conclude that.

SEYSS-INQUART: The charge is also raised against me that I blew up safes. I opposed this most strongly. When such a case was reported to me, I had my prosecuting authority issue the indictment and the order for arrest.

DR. STEINBAUER: Now I shall go on to the next question. How about the blowing up and destruction of ports, docks, locks, and mines in the Netherlands?

SEYSS-INQUART: Blastings were undertaken at the moment when the Netherlands again became a theater of war. As for port and dock installations and shipyards, the following is important: The port of Antwerp fell almost undamaged into the hands of the enemy. I believe that that was of decisive importance for the further development of the offensive. Thereupon the competent military authorities in the Netherlands began to blow up such installations as a precautionary measure. I am only acquainted

with the fact, not with the details; and I refused to watch the explosions. But my commissioner and I intervened with the Armed Forces offices, and I believe that in Rotterdam half of the installations were not blown up. This is shown by the Dutch reports. I had nothing whatever to do with the matter, aside from this intervention.

When the English reached Limburg, an order was issued to blow up the mines as being vital for war. I inquired with Reich Minister Speer about this, and he issued an order not to blow them up but only to put them out of commission for 3 or 4 months. The orders were issued to this effect. I hope that they were not violated.

DR. STEINBAUER: We have heard in this Trial of "scorched earth" policy. Did that apply to the Netherlands also?

SEYSS-INQUART: I received a "scorched earth" order from Bormann. Without there being a military necessity for it, all technical installations were to be blown up. That meant, in effect, the destruction of Holland, that is, the western Netherlands. If explosions are carried out in 14 or 16 different places in Holland the country will be entirely flooded in 3 or 4 weeks. I did not carry out the order at first; instead I established contact with Reich Minister Speer. I had a personal meeting with him on 1 April in Oldenburg. Speer told me that the same order had been given in the Reich; but that he was frustrating it, that he now had full authority in this matter, and that he agreed that the order should not be carried out in the Netherlands. It was not carried out.

DR. STEINBAUER: Now, to another chapter. Floods did occur. Did you have anything to do with them?

SEYSS-INQUART: I know about this, and in a certain connection I did have something to do with it.

There were previously prepared floodings by the Armed Forces for defense purposes and there were so-called "battle" floodings, which suddenly became necessary in the course of battle. The prepared ones were carried out in closest contact with my office and the Dutch offices. Through their intervention, about half of the area demanded was spared and saved. The flooding was done mostly with fresh water so that less damage would occur, and the outer dikes were spared. There were two battle floodings in Holland, at the order of the commander of Holland. The Wieringer Polder was mentioned in particular. At that time there was great danger of a troop landing from the air which would outflank the Dutch defense front. I was not actually informed of the execution of the battle floodings. The commander had decided on it overnight.

When, on 30 April, I talked to Lieutenant General Bedell Smith, General Eisenhower's Chief of the General Staff, he told

us: "What has been flooded so far can be justified from the military point of view; if you flood any more now, it is no longer justifiable."

After 30 April there were no more floodings.

DR. STEINBAUER: In this connection I should like to refer to Document 86, Page 221, without reading it. It shows that these floodings were of a purely military character.

Another charge which was made against you, Witness, is the question of the food supply for the Netherlands population. What measures did you take to maintain the food supply of the Dutch people?

SEYSS-INQUART: The food question in the Netherlands was doubtless the most difficult question of the whole administration; and I believe, because of the special aspects of the case, it was one of the most difficult in all the occupied territories.

In the Netherlands there is a density of population of 270 people per square kilometer, in Holland specifically there are more than 600 per square kilometer to be fed. The food economy is highly cultivated as a processing economy dependent upon the importation of hundreds of thousands of tons of food. With the occupation and the blockade all that had disappeared. The whole food economy had to be put on a new basis, as well as the production of food for immediate human consumption. It was certainly a great achievement of Dutch agriculture and its leadership that this was successful. However, I may say that my experts aided very effectively, and we got a great deal of support from the Reich.

Food distribution in the Netherlands was also very carefully regulated, more so almost than in any other occupied territory. The most important thing for me was to maintain this food system, although its leader, Generaldirektor Louwes, and his entire staff of helpers were definitely hostile to the Germans. Against the will of the Reich Central Office, I nevertheless retained him, because otherwise I would not have been able to bear the responsibility for the nourishment of the people.

DR. STEINBAUER: Did you also deliver food to the Reich?

SEYSS-INQUART: Yes, the troops, above all, claimed the right to live off the land, I believe, but grain was supplied from the Reich to an extent of 36,000 tons, vegetables being demanded in exchange. The Reich demanded in addition more vegetables and also the delivery of cattle, canned meat, seeds, and some other products. Vegetables and meat would not have made so much difference, but the seeds caused trouble. I am convinced that the Dutch food system did its utmost to prevent deliveries.

DR. STEINBAUER: I believe that that is enough on this theme, and I should like to ask how the general food situation was in the fall of 1944?

SEYSS-INQUART: During most of the occupation period we had a caloric value at first of 3,000, and then of about 2,500 calories, and in 1944 about 1,800 calories. Experience today will show what that meant.

In September of 1944 the Netherlands became a theater of war again. At about the time that the first British airborne divisions landed at Arnhem, a general strike of the Dutch railroads began on order of the Dutch Government in England; and it was carried out almost completely. At the same time ships vanished from the internal waterways. It was not a formal strike, but it amounted to the same thing.

Through this situation the defense possibilities for the German Armed Forces were most severely endangered. The German Armed Forces then began to confiscate ships and, in effect, interrupted all traffic. I got in touch with the Armed Forces and was told that if the railroad strike stopped they would not have to proceed so rigorously. I reported this to Secretary General Hirschfeld and Generaldirektor Louwes. No result was achieved, and I had to consider how I could restore shipping. I discussed it with the Armed Forces, and I suggested that I would give them 3 or 4 weeks' time in which they could secure their necessary shipping space. Out of about 2 million tons available, they needed 450,000 tons. During this time I forbade all ship traffic, because the Armed Forces was confiscating all ships anyhow. I permitted traffic of small ships in Holland.

THE PRESIDENT: How is all this relevant to the charges made against the defendant?

DR. STEINBAUER: The Report of the Netherlands Government, which the Prosecution also mentioned, states in great detail that the defendant, as Reich Commissioner, is responsible for the famine which began in September of 1944 and lasted until the spring of 1945 and for the great mortality, especially of children—whole tables of statistics have been submitted—because, on the occasion of the shipping and railroad strike, he prohibited the importing of food. That is one of the most important and serious charges made against him. I have asked for witnesses on this subject, and perhaps I might cut it short now so that the witnesses may speak about it.

SEYSS-INQUART: I should like to be allowed to comment on this matter. This is the charge which seems the most serious to me, too.

DR. STEINBAUER: Perhaps we can have a brief recess now, if Your Honor agrees.

THE PRESIDENT: Very well.

[A recess was taken.]

DR. STEINBAUER: In the Government Report it is asserted that at the time 50,000 Dutch people died of starvation; and, therefore, I should like to ask you what reason you had for establishing this traffic embargo at that time?

SEYSS-INQUART: I believe I have already explained that in the main. The traffic situation was such that the Wehrmacht had to make sure of its shipping space. As long as it did that there was no ship traffic as such possible. I wanted to limit this to as short a period of time as possible so that afterwards ship traffic could again be assured and Holland regularly supplied with food. Ship traffic was not interrupted primarily by my embargo, but rather—the witnesses will confirm this—by the fact that all ships that could be found were confiscated. Naturally, I asked myself whether the Dutch food supply would be endangered; and I said to myself that the Dutch people themselves were responsible for this state of emergency, and that the military interests of the Reich were, anyhow, equally important. I thought that if in the second half of October I could establish an orderly ship traffic, then, according to my experience, I would have 2 months' time in which to take care of the food supply for the Dutch people. Then I could bring in between 200,000 and 250,000 tons of food. And that would be sufficient to maintain rations of 1400 to 1800 calories. I believe I can recollect that between 15 and 20 October I gave the order to establish ship traffic again.

DR. STEINBAUER: And what did you do?

SEYSS-INQUART: Ship traffic was not established because the Dutch traffic authorities, for the most part, had disappeared, perhaps because they were afraid that they would be made responsible for the general railroad strike. For weeks on end our efforts were fruitless; and finally I talked with Secretary General Hirschfeld and gave him complete authority, particularly . . .

THE PRESIDENT: Dr. Steinbauer, the Tribunal does not think that this matter can be gone into extreme detail like this.

DR. STEINBAUER: Witness, perhaps you can be very brief about this and tell us what you did to alleviate conditions.

SEYSS-INQUART: I am practically finished. I gave Secretary General Hirschfeld full authority in the field of transportation. He

then, although very hesitantly, re-established traffic. He will confirm that I supported him in every possible way. Food supplies were brought into Holland. But many weeks had passed in vain. Within my sector, I then provided additional aid, about which witness Van der Vense and, I believe, witness Schwebel can give you information in their interrogatories.

DR. STEINBAUER: Now, I should like to submit as the next document an affidavit deposed by the witness Van der Vense. It has just arrived, but the translations are already finished and will probably be given to the Tribunal this afternoon or tomorrow morning. I shall now submit the original. I do not believe it necessary to read this document which has been translated into four languages. It describes exclusively the food situation in this critical period of time.

SEYSS-INQUART: May I also call your attention to the fact that the Dutch Government . . .

THE PRESIDENT: What is the number of it?

DR. STEINBAUER: Number 105.

SEYSS-INQUART: . . . that the Dutch Government changed the figure of 50,000 deaths to the correct one of 25,000.

DR. STEINBAUER: Now I shall turn to the last period of your activity as Reich Commissioner. I should like to ask you, when did you realize that military resistance in the Netherlands was in vain?

SEYSS-INQUART: That we had to reckon with the possibility that Germany might not win the war will be seen in my letter to the Führer in 1939. Actual fear that this might happen arose at the time of Stalingrad. Therefore one had to consider that possibility, and in due time I feared that things would take this turn; I definitely and reliably knew it through a statement which Reich Minister Speer made to me on 1 April 1945 . . .

DR. STEINBAUER: 1945?

SEYSS-INQUART: April 1945. Up until that time I did not want to believe it; but faced with the prospect of an unconditional surrender and complete occupation, I naturally believed that in every respect I should have to prepare for the worst because the consequences were unpredictable. Speer at that time told me that the war, for Germany, would end in a relatively short period of time because armament production simply could not be kept up. He said 2 to 3 months.

DR. STEINBAUER: When you realized this fact, what did you do?

SEYSS-INQUART: I decided to end the defensive occupation of Holland without violating my duties to the Reich and to the Führer.

I went to The Hague and discussed the methods with Secretary General Hirschfeld. We agreed to get in touch at once with the confidential agents of the Government in The Hague—which was illegal for me—and to ask them to start negotiations on the basis that the Allied troops should not advance against Holland, in which case no further destruction would occur and the Allies could take over the feeding of the Dutch population through direct contact with the Dutch authorities for food supply. Then we would wait for the end of the war.

DR. STEINBAUER: Was this not an arbitrary act on your part as far as the German Government was concerned?

THE PRESIDENT: What was the date of this?

DR. STEINBAUER: What was the date of this?

SEYSS-INQUART: This conversation with Secretary General Hirschfeld took place on 2 April 1945. Then the negotiations dragged on, and on 30 April I had the conversation with Lieutenant General Bedell Smith. I purposely did not ask for authorization from Berlin in order to avoid a refusal or be prohibited from carrying out my intention. I did this on my own. General Blaskowitz, the commander of the Netherlands, was very apprehensive. He called me during the night, because his superiors had asked him just what was going on. Nevertheless, I was determined to carry through this matter, for it seemed the only reasonable step I could take in this situation. I stated that I would assume all responsibility. On 30 April the conference took place and the result that I had desired in effect materialized—the giving up of the military defense of Holland.

DR. STEINBAUER: Then what did you personally do?

SEYSS-INQUART: Admiral Dönitz, as head of State, called me to Flensburg. I went by speedboat across the North Sea and reported to him, and the Admiral will confirm this as my witness; I succeeded in having the demolition decree rescinded and tried my very best to return to the Netherlands. Finally I plunged ahead and was arrested in Hamburg.

DR. STEINBAUER: Just why did you want to return to the Netherlands?

SEYSS-INQUART: First of all, I wanted to take care of my co-workers; in the second place, I always was of the opinion that I should answer for my administration there; and finally, I was of the opinion that since we had been out in front in the hour of triumph we could lay claim to being out in front in the hour of disaster as well.

DR. STEINBAUER: Mr. President, I have concluded my examination of the witness.

DR. CARL HAENSEL (Counsel for SS): Did you belong to the SS?

SEYSS-INQUART: I had an honorary position in the General SS. As such I was not a regular member of the General SS, but I was very much interested in the SS as an ideological and a political formation.

DR. HAENSEL: Did you exercise any functions in the SS, or did you just have a title?

SEYSS-INQUART: *De jure* I had only a title. Politically I tried to exert a certain influence on the SS in the Netherlands, insofar as it was not the Waffen-SS, the Security Police, and so on; and in April of 1945 I believe I can say that *de facto* I was the foremost SS Führer in the Netherlands.

DR. HAENSEL: Did you have the impression that the SS was a closed, unified organization, or were there great divergences within the organization itself?

SEYSS-INQUART: To outward appearances it was an extremely closed system. Internally there were two factions. One wanted the SS to be just a political training unit. Obergruppenführer Heissmeyer belonged to this school. The other faction wanted to make a state executive organ out of the SS. Heydrich belonged to this group. At first Himmler vacillated, but later he went over completely to Heydrich's camp. The SS ideal disappeared, because Himmler misused it for executive powers.

DR. HAENSEL: Can you limit that as to time? When approximately, in what year, did this ideal die out?

SEYSS-INQUART: I believe the first signs were evident in 1938. The process continued with giant strides at the time of the Eastern campaign.

DR. HAENSEL: Did not the General SS come a little to the fore ever since 1939, whereas only the executive office groups or the Waffen-SS were active?

SEYSS-INQUART: In any event from this time on Himmler transferred people from the General SS and put them into his various executive organizations. The General SS, for me anyway, did not come to the fore after that time.

DR. HAENSEL: Do you think that the SS man could know about the struggle for power in the leadership, that he had insight into this at all; or was he unconscious of this?

SEYSS-INQUART: I do not believe that the ordinary SS man knew this, but there were many SS men who felt very uncomfortable and who remained with their organization only because they felt it was their duty.

DR. HAENSEL: You said in your interrogation that a decree of Heydrich's caused you to have Jews transported from Holland. Did you see Hitler's decree to Heydrich?

SEYSS-INQUART: I think so—a decree from Hitler to Heydrich alone would not have been for Heydrich.

DR. HAENSEL: You picture the situation as if Heydrich had told you that he had this decree.

SEYSS-INQUART: Yes, he told me that, and a few weeks later he sent me this decree.

DR. HAENSEL: Was it in writing?

SEYSS-INQUART: Yes, it was in writing.

DR. HAENSEL: And what did the decree say?

SEYSS-INQUART: That he had complete charge of the final solution of the Jewish question as well as other matters dealing therewith.

DR. HAENSEL: And when was this? 1941? 1940?

SEYSS-INQUART: It was at about the time when the evacuations started. That was in 1942.

DR. HAENSEL: That must be wrong. It was 1941, not later.

SEYSS-INQUART: Perhaps he showed me the decree later. I do not know the date of the decree.

DR. HAENSEL: That must be the case. But this decree, you said, was conceived in general terms?

SEYSS-INQUART: General terms.

DR. HAENSEL: It could be interpreted one way or another? I mean, you know . . .

SEYSS-INQUART: Yes, I had the impression that in the occupied territories Heydrich was to carry through the evacuation, and at that time I was not quite sure whether that was to be a final evacuation—which, however, was possible. The most extreme possibility was that the Jews would be collected in camps and after the end of the war settled somewhere.

DR. HAENSEL: I beg your pardon, Witness, the most extreme possibility would certainly be that the Jews would be destroyed, is that not so?

SEYSS-INQUART: I am speaking of the most extreme possibility which I thought of at the time.

DR. HAENSEL: And which you could imagine according to the words of the decree?

SEYSS-INQUART: Yes.

DR. HAENSEL: Now, the question is: Is there a possibility that Heydrich went beyond Hitler's decree, that Himmler himself did not want these acts which Heydrich committed?

SEYSS-INQUART: I cannot testify to that.

DR. HAENSEL: Did you talk with Hitler before 1943?

THE PRESIDENT: I do not think the witness can tell what the possibility was as to what Heydrich would do any better than we can. He cannot give evidence about that sort of thing.

DR. HAENSEL: Yes.

[Turning to the defendant.] Before 1943 did you discuss these problems with Hitler?

SEYSS-INQUART: I was merely present when Hitler talked about these problems. It was always along this line, to eliminate the Jews from the German population and to send them somewhere abroad.

DR. HAENSEL: But there was no talk at all about destruction of the Jews?

SEYSS-INQUART: Never.

DR. ROBERT SERVATIUS (Counsel for Defendant Sauckel): Witness, did Sauckel cause raids in the Netherlands, and did he have churches and motion picture houses surrounded?

SEYSS-INQUART: He could not have done that. I would not have allowed that, and he did not ask to have that done.

DR. SERVATIUS: Did Sauckel have anything to do with the operations of the Army in 1944?

SEYSS-INQUART: No, he did not know anything about that. When he heard about it, one of his men arrived so that he could in any case recruit skilled workers on this occasion; but this actually did not take place, for the Armed Forces sent these men into the Reich right away.

DR. SERVATIUS: Did the regular worker transports to Germany, in connection with the recruitment of workers by Sauckel, take place under normal transport conditions or under very bad conditions?

SEYSS-INQUART: Whether the recruitment was voluntary or compulsory, transport conditions were always normal. The same as for everybody else in the Netherlands. They were not accompanied by Police, but by officials of the Labor Employment Office, with the exception of the 2,600 whom the Police had arrested and who were sent to a camp of Sauckel's in the Reich.

DR. SERVATIUS: Did Sauckel have anything to do with the transporting of internees or Jews?

SEYSS-INQUART: Not at all.

DR. SERVATIUS: Do you know what the working conditions were for the workers who came from Holland to Germany?

SEYSS-INQUART: I knew about them in the main. They were the same conditions as applied to workers in the Reich. But difficulties arose. First of all, the employers in the Reich asserted that the Dutch people had in part given false information at the time of their recruitment and did not meet with requirements. Secondly, these labor contracts were for a certain duration and the employers wanted to have the Dutch people remain in the Reich for a longer period.

I saw to it that nothing was written into these labor contracts which would not actually be observed in the Reich, no matter what one might find out in the Reich.

DR. SERVATIUS: Then I have no further questions to put to the witness.

DR. HANS LATERNSER (Counsel for General Staff and High Command of the German Armed Forces): Witness, I wanted to put one question to you regarding the floodings. What did you, your offices, or the Commander, West undertake in order to prevent the pump stations from being flooded and so avoid a great flooding of Holland?

SEYSS-INQUART: I do not quite understand the question. The pump stations could not be flooded, only the polder area.

DR. LATERNSER: Yes.

SEYSS-INQUART: There were two dangers. One was that of blowing up, and in that case the pump stations would not have been of any use; anyway it was not done, as is known, but was prevented. The second danger was lack of coal and oil. We tried, as long as possible, to supply the pump stations with coal. This coal was listed as a top priority need. It was thus placed in the same category as every other Armed Forces requirement. When we received less and less coal, we allowed certain very low-lying reclaimed areas to run full, so that others would not be flooded. There was completely frictionless co-operation with the Dutch offices; and a deputy of the Dutch Government in England, with whom I spoke later, to whom I sent my expert, said that from the technical point of view our flooding measures were not objectionable.

DR. LATERNSER: Now, a second point. In answer to a question from your counsel, you said that you intervened against the destruction in the harbor of Rotterdam. With whom did you intervene?

SEYSS-INQUART: With General Christiansen, who was then commander-in-chief and Wehrmacht commander, who took my side immediately.

DR. LATERNSER: Then you found him in agreement at once with regard to your intervention with this military office?

SEYSS-INQUART: Yes.

DR. LATERNSER: I have no further questions.

DR. HANS FLÄCHSNER (Counsel for Defendant Speer): Witness, you mentioned yesterday the protected industries (Sperrbetriebe). Can you tell me when these industries were established in Holland and how they aimed to affect the labor employment program, that is, the transportation of workers from Holland to Germany?

SEYSS-INQUART: I believe the protected industries were established during 1943, if I remember correctly in the second half of 1943. The workers in these industries were protected. Thus, the recruiting and transporting of Netherlands workers to the Reich was partly slowed down and partly prevented altogether.

DR. FLÄCHSNER: When the protected industries began to function and work was taken up, were raw materials brought from Germany to Holland, coal in particular, so that the orders could be fulfilled?

SEYSS-INQUART: I believe all raw materials, with the exception of coal. Coal was brought in from Limburg.

DR. FLÄCHSNER: You mentioned yesterday the Organization Todt. Do you know to what extent this Organization Todt in Holland used Dutch construction firms for construction work there on the Atlantic Wall and to what extent this construction was carried out by Dutch construction firms?

SEYSS-INQUART: I believe that the bulk of construction work in Holland, Northern France, and Belgium was done by indigenous construction firms. This is definitely true of Holland; and Dutch construction firms also carried out work in Belgium and in Northern France. These firms brought their workers along with them. In this manner some 35,000 to 40,000 Dutch workers who were not drafted by compulsion were working in Belgium and Northern France in the middle of 1942.

DR. FLÄCHSNER: Can you tell us what results this procedure had generally on the recruitment of native labor?

SEYSS-INQUART: The indigenous workers naturally preferred to go into the protected industries or the firms of the Organization

Todt, for there they were at least more certain of not being transported to the Reich. And in addition, while they were with the Organization Todt they received special food rations.

DR. FLÄCHSNER: Witness, when in August or September 1944, because of enemy bombings on the distribution system, production in Holland was hampered or even paralyzed, what measures were taken in order to protect the unemployed workers of the protected industries?

SEYSS-INQUART: Three courses were open to us: First of all, to bring the workers into the Reich; secondly, to dismiss these workers and give them unemployment relief; and, thirdly, to retain these workers and to pay them their wages even though they did little or no work.

I believe it was because of a decree issued by Reich Minister Speer that the third course was chosen. The workers in those industries received their pay, and I took care that the factory owners received a certain compensation for wages which they paid those workers.

DR. FLÄCHSNER: Witness, you mentioned before a discussion which you had on 1 April 1945 with Codefendant Speer. Can you tell us what the purpose of this discussion was?

SEYSS-INQUART: I mentioned already that I, for my part, wanted to talk with Minister Speer about the "scorched earth" decree. But Minister Speer also had a purpose in mind. He wanted us to transport potatoes from north Holland into the Ruhr region and in exchange to bring coal from the Ruhr area into the Netherlands. In view of the potato supply in north Holland this could readily have been done, but we did not have enough transportation means at our command to carry out this plan.

DR. FLÄCHSNER: Did Speer tell you about precautionary measures for the securing of food supplies during the period after the occupation?

SEYSS-INQUART: Minister Speer told me that behind the Ruhr area he had stored trainloads of food and that he had appropriated the means of transportation from the armament program, so that if the Ruhr area were invaded there would be trains with food for this area available.

DR. FLÄCHSNER: Thank you very much.

THE PRESIDENT: Does Counsel for the Prosecution wish to cross-examine? I am sorry, Dr. Kubuschok, did you have something to say?

DR. EGON KUBUSCHOK (Counsel for Defendant Von Papen): The Defendant Kaltenbrunner has asked me, as the defense counsel

sitting nearest him, to state that he had discussed with his attorney a number of questions which he would like to put to Seyss-Inquart. I just tried to reach Dr. Kauffmann, Kaltenbrunner's defense counsel; at present and probably all this afternoon it will not be possible for us to reach him. The Defendant Kaltenbrunner asks for permission to have these questions asked of Seyss-Inquart tomorrow.

THE PRESIDENT: The Tribunal will expect some explanation from Dr. Kauffmann as to why he is not here to cross-examine. He must have known that the time was about to arrive for him to cross-examine. But the Tribunal will assent to the suggestion that those questions may be put at a later date, tomorrow, if possible.

Now, do Counsel for the Prosecution wish to cross-examine?

M. DELPHIN DEBENEST (Assistant Prosecutor for the French Republic): Defendant, you have studied law, and you have told us that you had even obtained the degree of Doctor of Law at the University of Vienna in 1917?

SEYSS-INQUART: Yes.

M. DEBENEST: You were a lawyer from 1929 to 12 February 1938, at which date you became Minister for the Interior?

SEYSS-INQUART: From 1921.

M. DEBENEST: Very well. Now, was not your clientele mainly composed of Jews?

SEYSS-INQUART: No, not mainly, but there were some among them.

M. DEBENEST: And yet you told us yesterday that you had been an anti-Semite ever since the first World War.

SEYSS-INQUART: My clients knew that. It was widely known.

M. DEBENEST: Yes. But it did not, at the same time, cause you to despise Jewish money.

SEYSS-INQUART: Neither did it prevent the Jews from coming to me.

M. DEBENEST: Were you a Catholic?

SEYSS-INQUART: What do you mean by that?

M. DEBENEST: I am asking you whether you were a Catholic.

SEYSS-INQUART: I am a member; that is, I belong to the Catholic Church.

M. DEBENEST: Were you not also a member of a Catholic fraternity when you were a student?

SEYSS-INQUART: I never belonged to any student organization, Catholic or national.

M. DEBENEST: Very well. You were appointed Reich Commissioner for Holland by a decree of Hitler's dated 18 May 1940; is that correct?

SEYSS-INQUART: Yes.

M. DEBENEST: Your orders, on reaching the Netherlands—as you told us yesterday—were: To maintain the independence of the Netherlands and to establish economic relations between that country and Germany. You added that these orders were never afterwards modified by the Führer; is that true?

SEYSS-INQUART: I did not quite understand one word, the reference to economic relations.

M. DEBENEST: I said that you had arrived in the Netherlands with the following orders: 1) to maintain the independence of the Netherlands and 2) to establish economic relations between that country and Germany. Is that so?

SEYSS-INQUART: I would not put it that way exactly; rather, I was to try and bring about as close an economic relationship between Holland and Germany as possible. The economic stipulations, too, were, in the long run and apart from war necessities, not intended to be dictatorial.

M. DEBENEST: But you did say that you had not come with the intention of giving a definite political outlook to the people of the Netherlands. Is that correct?

SEYSS-INQUART: Well, I would not put it that way. It was my intention to further National Socialist policy wherever possible in Holland; not to decree it, but to promote it as much as possible.

M. DEBENEST: Was it also your intention not to introduce but to impose it?

SEYSS-INQUART: No, for one cannot force a political ideology on anyone.

M. DEBENEST: Very well. I am going to have a Document, Number 997-PS, handed to you. This document has already been submitted both by the Prosecution under Number RF-122, and yesterday by the Defense.

Will you kindly turn to Pages 7 and 8 of the German text? It is Page 7 of the French text, at the paragraph "Measures." This document, as you will note, is a report which you yourself made.

SEYSS-INQUART: Yes.

M. DEBENEST: You write:

"In view of this state of affairs it was necessary first of all to eliminate Winkelmann's influence, which was done in the following manner: The secretaries general were expressly

informed that from now on they would take orders only from the Reich Commissioner, which they expressly agreed to. The offices of secretaries general were retained and the same persons kept in office, since in the event of their resignation it would probably be impossible to find Dutch people who would be willing to take over the administration. In the rightist parties there were hardly any people qualified to do this; but it seemed necessary, from a political point of view, that a certain number of measures, above all economic measures, and indirectly, police measures as well, signed by the Dutch secretaries general, be made known to the Dutch nation."

In short, according to this document, it appears that if you decided to retain the secretaries general, it was because you needed them for imposing certain measures on the Dutch people? Is that correct?

SEYSS-INQUART: Yes, but what has that to do with politics? This is a matter of administration.

M. DEBENEST: As far as I know, this refers to political as well as to economic questions.

SEYSS-INQUART: No, in the German text it says "police question." Economic and police questions, not political; there is a difference.

M. DEBENEST: In that case, I will re-read the sentence, bearing your answer in mind.

"But it seemed necessary, from a political point of view . . ."

Now is that "political" or "police" which we see?

SEYSS-INQUART: Just a moment, please. Yes, that is correct. But that does not mean politics in the sense of party politics, but political in respect to the treatment of the Dutch people as such. Whether they thereby became National Socialists or not was quite immaterial to me.

M. DEBENEST: Was it in the interests of Dutch or of German policy?

SEYSS-INQUART: Well, I admit without any hesitation at all that I followed a German policy. That was part of my task.

M. DEBENEST: But the German policy of that day was surely the policy of the National Socialist Party?

SEYSS-INQUART: The German policy was, at that time, the policy of a fight for existence on the part of the German people, and this struggle was led by the National Socialist Party. But the basic concern was not the carrying out of the 25 points of the Party

program, but rather the carrying through of our fight for existence, and that is what I think this means.

M. DEBENEST: In your administration, in the Netherlands, you were helped by four Commissioners General: Wimmer in Administration and Justice, Fischböck in Finance and Economy, Rauter for Public Security, and Schmidt for Special Questions.

The Commissioner General for Public Security, Rauter, was directly subordinate to you, was he not?

SEYSS-INQUART: The four Commissioners General were immediately subordinate to me; Rauter, insofar as he, as Commissioner General for Security, headed the Dutch police, and not insofar as he was chief of the German Police.

M. DEBENEST: You had decided to rule and administer the Netherlands alone; to accomplish this you dissolved the two Assemblies which then existed; and by the same decree, you restricted the powers of the State Council to the juridical field.

SEYSS-INQUART: I do not remember this decree, but it may very well have been that way.

M. DEBENEST: You also seized control over the finances, and over the Treasury of the Netherlands. For this purpose you issued a decree on 24 August 1940 authorizing you to appoint the president of the Bank of Holland.

SEYSS-INQUART: I do not recall the date exactly, but I did issue such a decree.

M. DEBENEST: When you arrived in the Netherlands, Mynheer Trip was president of the Netherlands Bank and Secretary General for the Treasury?

SEYSS-INQUART: Yes.

M. DEBENEST: For what reason did you have him replaced?

SEYSS-INQUART: Mr. Trip was replaced because he objected to the lifting of the existing foreign currency and clearing limitations. I put it to him that he could resign if he did not want to carry out my measures.

M. DEBENEST: And by whom did you replace him?

SEYSS-INQUART: By Mynheer Rost van Tonningen.

M. DEBENEST: You had known Mynheer Rost van Tonningen for a very long time?

SEYSS-INQUART: I do not believe I knew him—only by name at the most. He obviously had been judged capable of holding the same office for Austria—in connection with the League of Nations—in Vienna.

M. DEBENEST: Since when did you know his name?

SEYSS-INQUART: Most probably since the time when he assumed his office in Vienna. I do not know the date.

M. DEBENEST: You were not associated with him when he was in Vienna?

SEYSS-INQUART: I believe that I never saw him.

M. DEBENEST: Was Mynheer Rost van Tonningen not a member of the Dutch National Socialist Party?

SEYSS-INQUART: Yes.

M. DEBENEST: Was that the reason why you appointed him?

SEYSS-INQUART: That was one of the reasons. Not so much the fact that he was a member but rather that he represented our views.

M. DEBENEST: Will you kindly look again at the document which I have just shown to you, 997-PS, Page 5 of the German text, and Page 5 of the French text. This is what you say about Mynheer Rost van Tonningen:

> "Rost van Tonningen: Meets perfectly all the ideological requirements, is in line with the Germanic idea and National Socialism, speaks effectively and animatedly, has a strong desire to be active, does not find his strength in himself but seeks the support and backing of other people."

As far as I can see, we do not find in what you write here about Rost van Tonningen that he was particularly competent in financial matters.

SEYSS-INQUART: In reference to the other gentlemen as well, I never described their technical qualifications but merely their political attitude. I did not say that Mr. Mussert was really a recognized engineer in the Netherlands and so forth. I described merely their political attitude.

M. DEBENEST: Thank you. Therefore, you set up in the Netherlands a civil government, a German civil government.

SEYSS-INQUART: My four Commissioners General could not be considered as having the same offices as ministers normally have. Certain functions, however, had been delegated to the secretaries general. But these secretaries general did not represent a government or a ministry. I mentioned yesterday that I took over the Government.

M. DEBENEST: But the secretaries general did represent the Government of the Netherlands, did they not?

SEYSS-INQUART: No; the secretaries general were the supreme heads, officials of certain ministries; but they were not what we call

the bearers of sovereignty in the State. Those gentlemen were in England.

M. DEBENEST: But you knew, nevertheless, that they had been left in the Netherlands by the Government in order to carry on the duties of the Government in its place?

SEYSS-INQUART: What intentions the Government which had gone to England had in making this appointment, I do not know. I assumed that they remained there in order to direct the administration technically. It is within the jurisdiction of an occupying power, in the case of complete occupation of a country, to determine just how the government is to be carried on.

M. DEBENEST: But did you consider that the creation of a German civil government in an occupied country was in conformity with international conventions?

DR. STEINBAUER: Mr. President, I object to this question. In my opinion, it is a question which should be solved by the High Tribunal.

THE PRESIDENT: The Tribunal thinks the question may be asked. The defendant has already given his views of international law in his examination-in-chief. We allow the question.

M. DEBENEST: Then answer me, please.

SEYSS-INQUART: May I please have the question repeated?

M. DEBENEST: Do you consider that the creation of a German civil government in an occupied country is in conformity with international convention?

SEYSS-INQUART: In the way in which it took place in Holland, certainly.

M. DEBENEST: And why?

SEYSS-INQUART: Because, as a result of the complete occupation, Germany had assumed responsibility for the administration of this country and, therefore, had to establish a responsible leadership in this country.

M. DEBENEST: You yourself created the secretariats general, particularly the Secretariat for Information and Fine Arts?

SEYSS-INQUART: We call it the Propaganda Ministry.

M. DEBENEST: Yes.

SEYSS-INQUART: Yes, I did that.

M. DEBENEST: And whom did you put at the head of this Secretariat?

SEYSS-INQUART: I believe Professor Goedewaagen first. He, too, was a member of the Dutch National Socialist Party.

M. DEBENEST: That is true. Was not the staff of the General Secretariat mainly composed of members of the Dutch National Socialist Party?

SEYSS-INQUART: I am convinced of that, but I did not know them individually.

M. DEBENEST: Do you also know that in one of the offices a member of the SS even acted in an advisory capacity?

SEYSS-INQUART: The Dutch SS?

M. DEBENEST: No, the German SS.

SEYSS-INQUART: Then he was a consultant?

M. DEBENEST: He was a consultant for national education and national development.

SEYSS-INQUART: I did not quite follow you—he was a consultant for . . .

M. DEBENEST: For national education.

SEYSS-INQUART: Yes; I did not know him. I consider it possible; but I do not believe that he was there as an SS man in particular, but rather for other reasons.

M. DEBENEST: You ordered the dissolution of the municipal and provincial assemblies; why?

SEYSS-INQUART: I cannot say the dissolution of the administration. I eliminated merely the elected representatives of the communities and the provinces. I not only kept the administration itself, but also strengthened it in its functions.

M. DEBENEST: You even turned out the mayors of the more important municipalities?

SEYSS-INQUART: Certainly; and I am convinced, with the full right of an occupying power. The burgomaster of Amsterdam did not prevent the general strike but rather promoted it.

M. DEBENEST: But was that the same reason that made you turn out all the mayors, or at least a certain number of them?

SEYSS-INQUART: I did not remove any mayors from office until they became unbearable for me because of their actively hostile attitude. Otherwise their political attitude was of no significance to me. Up to 1945 I kept Herr Boraine's brother as mayor in a Dutch city, even though he was a very bitter enemy of National Socialism and of us Germans.

M. DEBENEST: Very well. And by whom did you replace all these mayors?

SEYSS-INQUART: I believe that until the year 1943, at least, the posts were filled in agreement with Mr. Fredericks, the Secretary General of the Interior, who was left behind for me by the Dutch Government to administer interior affairs. There were National Socialists; there were those who were not National Socialists. For instance, the son of the province commissioner of Holland was a firm enemy of National Socialism and of Germany, and yet I appointed him mayor of one of the largest Dutch cities, Zwolle.

M. DEBENEST: You are not exactly answering my question. I am asking you to tell me by whom you replaced all the mayors whom you had turned out? Were they members of the NSB?

SEYSS-INQUART: In part they were members of the Dutch National Socialist Party. In part they were nonpolitical men; and in part they were members of political trends which were absolutely against National Socialism and against Germany. In time there were more and more people of the Dutch National Socialist Party, for other people did not put themselves at our disposal any longer. That was the greatest success of the Dutch resistance movement that politically it resisted us so completely. That was Holland's significance in this war.

M. DEBENEST: You therefore assert that it was the Dutch resistance movement which led you to put a great number of NSB people in all the important positions?

SEYSS-INQUART: No, that would be going a bit too far. The Dutch resistance movement merely induced the population not to co-operate with the occupying power at all, so that outside of the members of the Dutch National Socialist Party there was no one who wanted to work with us.

THE PRESIDENT: Would that be a convenient time to break off?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

M. DEBENEST: Defendant, in the larger towns and in the provinces of the Low Countries, you installed agents who were directly subordinate to you and to whom you gave full powers. Were those agents not members of the NSDAP?

SEYSS-INQUART: Will you please tell me what you mean by "agents"? I had German representatives in the provinces and in the big cities. Do you mean the German or the Dutch ones?

M. DEBENEST: No; I meant to speak of the Beauftragten (delegates).

SEYSS-INQUART: They were Germans, and I assume that all were members of the NSDAP. I do not know for certain, but it is quite possible and I believe that was the case.

M. DEBENEST: Well, then, in order to refresh your memory, will you please take Document 997-PS, which I had handed to you this morning. I refer to Page 9, in the French and German texts.

I would like to inform the Tribunal that I gave an incorrect reference this morning. The document was submitted under the Number USA-708, but it is RF-122.

[Turning to the defendant.] At the top of Page 9 you write:

> "Delegates have been provided for the provinces which have a far-reaching independent administration. The creation of these posts was delayed due to the necessity of making a preliminary examination of the situation. It has now been shown that it must be less a question of administrative officers than of men who have had political experience. Therefore, through Reichsamtsleiter Schmidt, Reichsleiter Bormann (Hess' staff) was asked for men who, coming mostly from the Party, are now on their way and can be installed in their functions in the provinces in a few days."

That was true, wasn't it?

SEYSS-INQUART: Yes, and I find my assertion confirmed that they were not all from the Party.

M. DEBENEST: Very well, but I also notice that these men were specially selected.

SEYSS-INQUART: Yes, they were politically experienced men for I did not want any administrative bureaucrats but men who were experienced and skillful in public political life, not Party political life.

M. DEBENEST: On what basis did you organize the municipal councils and the regional councils?

THE PRESIDENT: M. Debenest, it seems to the Tribunal—I don't know whether we are right—that it would be better if you would pause after the sentence rather than after each word.

M. DEBENEST: Yes.

SEYSS-INQUART: Will you please tell me what you mean by municipal and provincial councils? According to our concept, the word "council" means a corporate body, but I did not establish any such bodies, I appointed individual men to direct the administration.

M. DEBENEST: In the communes, in the Netherlands, there were municipal councils and in the provinces provincial councils, however differently you may have termed them.

SEYSS-INQUART: Thank you. I understand. In 1941 I dissolved the provincial and community assemblies which had previously existed. I provided for such councils in the community regulations which I issued then, but never actually appointed such councils because the Netherlands population did not co-operate and as a result these community councils would have been only artificial bodies. This provision of my community regulations did not go into effect.

M. DEBENEST: But on what basis did this regulation establish this organization?

SEYSS-INQUART: I cannot recall any certain basis. I assume that it was established by law, if it was provided for at all.

M. DEBENEST: Well, I will put the question in a different manner and perhaps you will be able to answer it. Did you introduce, by means of your regulations, the Führer Principle?

SEYSS-INQUART: Yes. I called it the "one-man responsibility," and I am of the opinion that in times of crisis a "one-man responsibility" is the correct thing.

M. DEBENEST: That was, in fact, the system which was also applied in Germany?

SEYSS-INQUART: That is true. Perhaps it was not exactly the same, but under the circumstances I considered it correct.

I repeat what I said yesterday: We committed an error here. We committed the error of considering the order imposed by the occupational forces better than that already existing in the occupied territory.

M. DEBENEST: Well, the introduction of this principle had a particular importance, did it not?

SEYSS-INQUART: I certainly thought it did; especially in these territorial districts I had to have a man who was responsible to me

for the administration and not an anonymous majority of a representative body.

M. DEBENEST: I am having Document F-861 handed to you, which I submit under Number RF-1524. From the last paragraph you will see the importance which was attached to that in the Reich. It is a letter of the Minister of the Interior dated 6 September 1941. It reads as follows:

> "Particular importance must be accorded to the decree because it contains detailed regulations concerning the introduction of the Führer Principle in the municipal government of the Netherlands."

SEYSS-INQUART: Yes. The Minister of the Interior was interested in this. I should only like to point out, to get things straight, that the Reich Minister of the Interior exerted no influence, and in the second place that these larger powers were given in 1941 to at least 80 percent of the mayors, who belonged to the democratic party and were therefore my political opponents.

MR. PRESIDENT: M. Debenest, haven't you established, by the questions that you have put to this defendant, that he did alter, to a considerable extent, the form of government in the Netherlands, and that he introduced a different form of government? Isn't that all that you really require for the argument which, no doubt, you intend to present? The details of it don't very much matter, do they?

M. DEBENEST: Mr. President, I simply wish to demonstrate that, contrary to what the defendant said, he had sought to impose the National Socialist system upon the people of the Netherlands.

THE PRESIDENT: Well, to a large extent, I think he had admitted that. He said just now that he introduced what he called "one-man responsibility," which is another phrase for the Führer Principle, and that he had dissolved various organizations of the Netherlands Government. All I am suggesting to you is that, having got those general admissions, it isn't necessary to go into details about the exact amount that the Government of the Netherlands was interfered with or the exact way in which it was replaced. Isn't it really all stated in a document drawn up by the defendant, namely, the document you have been putting, 997-PS?

M. DEBENEST: More or less, Mr. President, but not entirely.

THE PRESIDENT: Well, the only question is whether the details are really very important for the Tribunal.

M. DEBENEST: I thought that those details might have a certain importance, since the governors of the Reich itself attached a great deal of importance to it and, in fact, the whole was part of a plan which had been definitely laid down.

THE PRESIDENT: Well, the Tribunal is inclined to think that you have got all that is necessary for the argument which you are indicating that you would present. If there are any particular details that you think important to us, no doubt you can bring them out.

M. DEBENEST: Quite so, Mr. President.

[Turning to the defendant.] For what purpose had you centralized the police into a police directorate?

SEYSS-INQUART: I will repeat my testimony of yesterday. The Netherlands police was under three or four different agencies, the Ministry of the Interior, the Ministry of Justice, I believe the Army Ministry, and so forth. For the sake of a clear police administration, I thought it necessary to combine these various police organizations in one and to place it under the Ministry of Justice.

M. DEBENEST: Did you not appoint as chief of this police a National Socialist?

SEYSS-INQUART: Yes.

M. DEBENEST: In short, the end that you had in view—was it not to place the Netherlands in the hands of the NSDAP and thus adapt the internal organization of the Netherlands to that of the Reich? In other words, to do something similar to what you had done in Austria?

SEYSS-INQUART: I do not believe that one can say that. In particular, the policy of the NSB was not that of the NSDAP. The NSB was different in many respects. In the second place, if I had wanted to do that, I would have been able to make Herr Mussert Prime Minister; that would have been less complicated. The simple explanation is that I used, possibly in a somewhat schematic way, the example of the Reich as a model in setting up an administration in the Netherlands, which, at least in part, made it possible for me to carry out my task of watching over safety and order. Yesterday I only asserted that I forced no Dutch citizen to become a National Socialist. I did not deny that a certain co-ordination was undertaken due to the mistakes which I have repeatedly admitted.

M. DEBENEST: But you placed members of the NSB in all the administrative bodies, the higher offices?

SEYSS-INQUART: Not exclusively, but I did it because in the last analysis I could rely only on them; all others sabotaged my orders.

M. DEBENEST: You told the Tribunal yesterday of the dismissal of the magistrates of the court of Leeuwarden. Would you tell us again the exact causes of this dismissal?

SEYSS-INQUART: They were not the magistrates but the administrators of the court. This court of Leeuwarden had said in a public judgment that those Dutch citizens who were condemned by Dutch courts and sent to a Dutch prison would be transferred to German concentration camps, maltreated, and executed. As a result, the court no longer felt in a position to sentence a Dutch citizen.

This statement of the court was wrong in my opinion. In my opinion Dutch citizens have not been sent from Netherlands prisons to German concentration camps to be executed there.

In the meantime I cleared up the situation at the suggestion of the Amsterdam judges, and through the Secretary General for Justice I had the court in Leeuwarden requested to continue passing sentence. The court in Leeuwarden did not do so. Thereupon, I dismissed this court.

M. DEBENEST: Well, I have here the document "Verdict of the Court of Appeal of Leeuwarden" and there is no question of Dutch prisoners being sent to concentration camps or being tortured or otherwise put to death. All that is mentioned is that the magistrates of that court do not wish that the detainees be sent to concentration camps after they have served their sentence.

I shall hand you the original of this document so that you can check it. The document has already been submitted under Number RF-931.

SEYSS-INQUART: I did not receive a German translation or the original German.

M. DEBENEST: Then I shall read you the translation of the judgment; you may check it:

> "Considering that the court wishes to take into account the fact that for some time past various terms of imprisonment have been imposed by the Dutch judges upon the people contrary to the intentions of the legislation, and the penalties of the judges have been executed in a manner which aggravates those penalties to such an extent that it is impossible for the judge to foresee or even to suppose the penalty to be inflicted . . ."

THE PRESIDENT: Why not summarize the document to the witness, do it in that way? You can give the effect of the judgment.

M. DEBENEST: Certainly, Mr. President.

This judgment sets out in detail that the judges no longer wish to pronounce a penalty which might result in preventive detention.

THE PRESIDENT: Did you hear the question?

SEYSS-INQUART: Yes, Mr. President, but why did they not want to pass sentence? I had the German translation here in my

hands, and I took this translation as my basis in this matter because I did not recall this judgment. I read it here, and I remember that it stated there that these Dutch prisoners were to go to German concentration camps to be tortured and executed.

THE PRESIDENT: It doesn't appear to say anything about that in the judgment before us. There is nothing about that in the judgment, is there?

M. DEBENEST: Mr. President, the defendant claims that the judges did not wish to pronounce any such judgment any more so that people would not be sent to concentration camps to be tortured or executed. There is no question of that in the judgment. The only thing that is mentioned is that the court did not want to inflict any penalty which would result in the people being sent away to concentration camps. I do not see that there is anything in this judgment which the defendant might consider as a personal insult or injury.

SEYSS-INQUART: Now I have the German text. It reads:

"The court wishes to take into consideration the fact that for some time judges have imposed penalties and that Dutch criminals of male sex, contrary to legal prescription and contrary to the intention of the legislator and the judge, have been executed and are being executed in the camp in a manner which"—and so forth.

Those are the concentration camps which the court meant. It concerns the fact that prisoners were sent from Dutch prisons to German camps.

THE PRESIDENT: Go on, M. Debenest.

M. DEBENEST: As regards education, did you not bring about very extensive changes?

SEYSS-INQUART: I introduced the supervision of the curriculum of the schools, and I made my influence felt in the appointment of teachers, particularly in the very numerous private schools in the Netherlands. Two-thirds of the Netherlands schools were private. I felt it necessary because in these schools there was definitely an anti-German tendency which was taught to the students. The Netherlands Education Ministry had the supervision of these matters.

M. DEBENEST: You thereby prevented a large number of clergymen from taking part in public education.

SEYSS-INQUART: I do not believe so. I ordered, or agreed to the order, that clergymen should not be heads of schools. As for clergymen who were teachers, I agreed to have their pay reduced by one-third. They were able to continue to teach with two-thirds of

their income, and with the money which was saved I gave positions to 4,000 young teachers out of work.

M. DEBENEST: Talking of teachers, did you not cause the creation of a special school for teachers?

SEYSS-INQUART: No. I believe you mean courses which were given in Amersfoort or for those who volunteered for them.

M. DEBENEST: No. What I mean is those teachers who were compelled to take a course for a few months in Germany before their appointment.

SEYSS-INQUART: I do not recall the case. It might be those who were to teach German in the Netherlands schools. In that case, it is possible that I demanded that they first spend a certain time in Germany in order to be employed.

M. DEBENEST: You did, as a matter of fact, make the study of the German language in certain classes obligatory?

SEYSS-INQUART: In the 7th grade, and also in the 8th grade which I newly introduced. But at the same time, I also had instruction in the Dutch language increased in order to prove that I did not want to germanize the Dutch, but only wanted to give them an opportunity to study the German language.

M. DEBENEST: But they already had that opportunity. German was taught simultaneously along with English and French. You imposed the teaching of the German language at the expense of the other two foreign languages.

SEYSS-INQUART: I spoke of the elementary schools in which the study of German had not yet been introduced. It is conceivable that in the secondary schools instruction in German was increased at the expense of instruction in English and French.

M. DEBENEST: Did you not order the closing down of several universities? And why did you do so?

SEYSS-INQUART: I recall only the closing of the University of Leyden. When, according to my instructions, Jewish professors of the faculty were dismissed, the students of the University of Leyden went on strike for an extended period of time, and I thereupon closed its doors. I do not recall having closed any other universities. The Catholic University in Nijmegen and the Calvinistic University in Amsterdam, as far as I can recall, closed of their own accord.

M. DEBENEST: And the Polytechnic Institute at Delft? You did not order it to be closed either?

SEYSS-INQUART: Yes. That was a temporary measure. It was reopened, as far as I recall.

M. DEBENEST: How about the Catholic Commercial College at Tilburg?

SEYSS-INQUART: I do not remember that.

M. DEBENEST: It was in 1943.

SEYSS-INQUART: I do not remember. It is quite possible that for some reason or other it was closed, probably because it seemed to me to endanger the interests of the occupation forces.

THE PRESIDENT: It is not necessary to investigate this in detail, is it? If the defendant said that he closed one school without giving an adequate reason why, isn't that sufficient for you to develop your argument?

M. DEBENEST: Certainly, Mr. President.

[Turning to the defendant.] Later on you attempted to turn the University of Leyden into a National Socialist unversity?

SEYSS-INQUART: If you consider the appointment of 2 or 3 professors out of some 100 or 50 professors as such, I should have to say yes. I cannot recall any other measures. Once it was suggested to me to establish a university in Leyden at which German and Dutch students could study, and that studies there should find suitable recognition in Germany. This did not come about.

M. DEBENEST: Anyway, you admit that you had the intention of creating this school?

SEYSS-INQUART: "Intention" is a little too strong. These ideas were discussed. There was another idea. In the Netherlands, in the German Wehrmacht, we had a number of university students who had not been able to continue their studies for understandable reasons. It was considered at that time to hold courses at Leyden for these university students in the Wehrmacht, which would be a sort of continuation of their studies.

M. DEBENEST: I shall have Document F-803 presented to you, which I submit under the Number RF-1525. This is a report from the Ministry of National Education of the Netherlands. It is on Page 23 of the French version and Page 16 of the German version.

I shall read the passage:

"Attempts were made to make the University of Leyden a National Socialist university by appointing National Socialist professors. However, these attempts failed as a result of the firm attitude taken by the professors and by the students. Certain professors even . . ."

THE PRESIDENT: Is that on Page 15?

M. DEBENEST: That is on Page 23 of the French text, in the last paragraph.

THE PRESIDENT: What is it?

M. DEBENEST: It is F-803.

THE PRESIDENT: I did not ask what document it was. I asked what is the nature of the document.

M. DEBENEST: I pointed out to the Tribunal that it was a report of the Minister for Education in the Netherlands.

THE PRESIDENT: Was he appointed by the defendant, or appointed before the war?

M. DEBENEST: It is the present Minister for Education. I would point out to the Tribunal that I am obliged to go into a certain amount of detail, because when the French Prosecution presented its case, we did not have all the documents at our disposal, and the Dutch Government is anxious to have these facts presented in as detailed a manner as possible.

I might add that today I am producing documents which emanate from the Dutch Government.

THE PRESIDENT: That is Page 23?

M. DEBENEST: Page 23 of the French text, six lines before the end of the last paragraph.

THE PRESIDENT: Yes.

M. DEBENEST: "Attempts were made to make the University of Leyden a National Socialist university by appointing National Socialist professors. However, these attempts failed as a result of the firm attitude taken by the professors and by the students. The professors even presented their collective resignation in May 1942, and as there was no reaction to it, they presented it a second time in September of the same year."

THE PRESIDENT: Surely, the defendant has already said this, has he not? This is Leyden University that you are speaking about, is it not?

M. DEBENEST: Yes, Mr. President. If I understood correctly, I believe the defendant said that there had been question of creating a National Socialist school in Leyden but that he had not put this project into effect. On the other hand, it appears from this document that it did not depend upon him but that it was a result of the attitude of the teachers. That is what I wanted to bring out.

SEYSS-INQUART: May I comment on that?

M. DEBENEST: Certainly.

SEYSS-INQUART: The fact that there was an attempt to make Leyden a National Socialist university is stated only in this document. I repeat my assertion that I appointed two, or at the most

three, professors who were National Socialists, and this document shows clearly what my attitude was. I did nothing at all against the demonstrative gesture of resignation of the professors. The second attempt was also unanswered. The fact that arrests occurred then is connected with the fact that part of the professors were otherwise suspected, and these professors were sent to St. Michelsgestel. That is this concentration camp where the inmates played golf.

M. DEBENEST: Then that was a coincidence?

SEYSS-INQUART: I would not say that. Certainly after the second attempt we checked up on the gentlemen a little.

M. DEBENEST: Did you not take measures to oblige the students to do forced labor?

SEYSS-INQUART: I do not think that this was done as long as they were studying, for I had issued express orders for the exemption of all students. Advanced technical students were given exemption and university students who were actually studying or had fulfilled the requirements for study were not forced to work, either, as far as I remember.

M. DEBENEST: Well, I shall give you briefly an account of Paragraph 2 of your regulation. It is the Ordinance of 11 March 1943, Number 27.

> "Any student who, after the present regulation has been put into effect, has successfully passed the final examination or a similar test in one of the studies mentioned in Paragraph 1 and specified as such by orders of the Secretary General in the Ministry for Education, Science, and Culture, is compelled to work for a determined period within the scope of the allocation of labor."

Is that your ordinance?

SEYSS-INQUART: Does it say labor service?

M. DEBENEST: I have not got the German version in front of me. It is Ordinance Number 27.

SEYSS-INQUART: Ordinance Number 27. May I ask what paragraph it is?

M. DEBENEST: Second paragraph.

SEYSS-INQUART: That is correct. It says, "Students who have taken the final examination," that is, who are no longer studying but have finished their studies. Members of the same age groups were meanwhile drafted for labor commitment, and those exempted by me now had to make this up. But their study was not disturbed or interrupted.

M. DEBENEST: Therefore, the students were able, freely, to continue their studies?

SEYSS-INQUART: I do not recall any obstacles.

M. DEBENEST: Good. Will you please look at the next decree, that is, Number 28, which is a decree of Secretary General Van Damm. This decree forces the students to make a declaration of loyalty.

SEYSS-INQUART: Yes, that is correct.

M. DEBENEST: What were the consequences?

SEYSS-INQUART: I could not understand the consequences. The universities were, at that time, the seat of anti-German activities. I demanded from the university students a declaration promising they would uphold the laws in effect in the occupied Netherlands territories, that they would abstain from any action against the German Reich, the Wehrmacht, and the Netherlands authorities, and that they would not interfere with public order in the university.

I cannot understand why a university student could not make such a statement. Those who did make it were able to continue their studies without any hindrance. But the Dutch professors, by way of sabotage, refused to give them any instruction.

M. DEBENEST: Well, then, those who did not subscribe to this declaration, what happened to them?

SEYSS-INQUART: They were no longer university students, and if they belonged to the age groups which I had called up for labor commitment, they were drafted.

M. DEBENEST: Did you not apply the Führer Principle to the universities?

SEYSS-INQUART: I do not believe quite as strictly as in the community administrations. But I gave the president of the university greater power because I demanded greater responsibility from him.

M. DEBENEST: Very well. Was not a certain National Socialist propaganda made in the universities?

SEYSS-INQUART: I believe that could not be entirely prevented.

M. DEBENEST: In particular, did not the students have to visit certain exhibitions and be present at lectures organized by the Party or even by the Reich offices?

SEYSS-INQUART: I do not know, but it is possible.

M. DEBENEST: In short, you interfered in the administrative domain, in the realm of teaching, and you also interfered in a similar manner in the cultural life of the Dutch people?

SEYSS-INQUART: Yes, to the extent which I stated yesterday.

M. DEBENEST: You did, in fact, create various professional syndicates, is not that what you told us?

SEYSS-INQUART: Yes.

M. DEBENEST: You alleged that the acceptance into these syndicates was not obligatory and that you never imposed payment of dues?

SEYSS-INQUART: That is not correct. Membership in these syndicates was obligatory. I am also convinced that the head of the syndicates required the members to pay their dues. I refused to conclude from the failure to pay dues that a person was no longer a member of the syndicate, and consequently could no longer practice his trade, or that his dues could be collected by way of court action.

M. DEBENEST: However, do you not recall the difficulties which arose in this manner with the medical profession?

SEYSS-INQUART: I was just thinking of the Medical Syndicate. Certain circles therein desired that the members who did not pay their dues should be prohibited from carrying out their profession, or that at least the dues should be collected through court pressure. I told these gentlemen that if it was not possible to persuade the members to pay their dues, I, for my part, would not assert any force.

M. DEBENEST: What were these circles?

SEYSS-INQUART: Perhaps you can tell me, then we shall save more time.

M. DEBENEST: Was it not the NSB for instance?

SEYSS-INQUART: In what connection?

M. DEBENEST: Did you not yourself say that certain circles had demanded the payment of dues? I am asking, what circles?

SEYSS-INQUART: Do you mean what friends or co-workers of mine urged me to insist on payment? The question is not very clear to me.

M. DEBENEST: I am just asking you to say exactly what you mean by "circles." You yourself used the word—unless it is a mistranslation.

THE PRESIDENT: M. Debenest, the Tribunal thinks really that you are spending too much time on these various small subjects. We have spent the whole afternoon on these various measures which the defendant introduced in the Netherlands. It is perfectly clear according to his own admission that he was altering the whole force of administration in the Netherlands.

M. DEBENEST: Did you not also take part in the persecution of the churches?

SEYSS-INQUART: I do not know whether the measures could be called "persecution of the churches," but I took measures concerning the churches.

M. DEBENEST: What measures in particular? What measures?

SEYSS-INQUART: I believe that the most serious, in your eyes, would be the confiscation of various Netherlands monasteries. One of them was turned into a German school and the church building was torn down.

M. DEBENEST: You alleged yesterday that priests or at least one priest could visit concentration camps? Is that correct?

SEYSS-INQUART: No, I did not say that. I said only that in the Jewish camp at Westerborg there were Catholic and Protestant Jews, who were visited on Sundays by a clergyman from outside. I do not believe that clergymen were allowed to pay visits to the concentration camps under the control of German Police or were able to enter them.

M. DEBENEST: Just one question as regards the press. Did the press retain a certain—I repeat, a "certain"—liberty during the time of the occupation?

SEYSS-INQUART: From my point of view, much too little. The press was under fairly strict control by the Propaganda Ministry. The editors were employed after being judged suitable by the Netherlands Propaganda Ministry. I believe that it is a matter of course for an occupying power that for such an important instrument one takes only people who have a certain positive attitude. I would have wished that these men could have been given much more freedom of speech, and I believe that I can say that so far as I exerted any influence, this was the case; but even the Reich Commissioner in the Netherlands was not almighty.

M. DEBENEST: Were there not reprisal measures taken against certain newspapers?

SEYSS-INQUART: I do not know . . .

THE PRESIDENT: We might get on a little bit more quickly. There is a very long pause between the question and the answer.

SEYSS-INQUART: I must first recall the circumstances. If unexpectedly I am questioned about something which happened 5 years ago I must think over carefully what actually happened in individual cases. For example, I can say "no" immediately, but I am sure that the answer is wrong.

Now, for instance, reprisals—I know that once in The Hague the editor's office of a newspaper was blown up. That was a measure

taken by the Security Police. It was the seat of an illegal propaganda group.

M. DEBENEST: You spoke yesterday of the sterilization of the Jews in Holland. Who introduced this measure?

SEYSS-INQUART: If you say "introduced," I believe that I can answer the question correctly. The Security Police informed me that a number of Jews had themselves sterilized by Jewish doctors and that thereupon these Jews were freed of all restrictions and could dispense with the wearing of the Jewish star. These were not Jews who otherwise would have been evacuated, but who would have remained in Holland subject to certain restrictions.

I asked the head of my health department to investigate the matter. He informed me that this was a very serious operation in the case of women, and thereupon I asked the Higher SS and Police Leader to forbid this action, at least in the case of women. Then the Christian churches protested to me. I answered the Christian churches—I assume you have the letter in your files—describing the state of affairs and pointing out expressly that no compulsion must be exerted here. Shortly thereafter this action was finished. As I heard, the Christian churches informed the Jews, and when they were sure that no compulsion would be exerted on them they no longer submitted themselves to this operation.

I myself returned their property to the Jews in question, and the matter was ended; although I must say today that the further away one is from this period of time, the less understandable it is.

M. DEBENEST: But was it you who had the idea of this sterilization?

SEYSS-INQUART: No, the matter was reported to me by the Security Police.

M. DEBENEST: Very well, I shall have Document 3594-PS handed to you, which I shall submit under Number RF-1526. It is an affidavit by Hildegard Kunze, an agent of the RSHA. Third paragraph:

> "I remember that either in this report or in another report he"—that is, Seyss-Inquart—"suggested that all Jews who were privileged to remain in Holland should be sterilized."

There is no question of police agencies there.

SEYSS-INQUART: This involves the correctness of the memory of a stenographer. In the third point, moreover, she does not even assert that the report in the third paragraph is the one she mentions in Paragraph (2), and which she ascribes to me. It is out of the question that she saw any report from me wherein I made such a suggestion. The case was reported to me as a fact by the Security Police, as an already existing fact or one in process of realization.

M. DEBENEST: So you contend that it was not you but the Police. In any case, you tolerated it?

SEYSS-INQUART: As far as the male Jews were concerned I tolerated it for a time; that is true. It was made clear to me that no direct compulsion was exerted on these Jews, no threat to their disadvantage.

THE PRESIDENT: We might adjourn for 10 minutes.

[A recess was taken.]

M. DEBENEST: Defendant, do you claim that you forced no one to go and work in Germany?

SEYSS-INQUART: On the contrary, I believe I enrolled 250,000 Dutch people to work in Germany, and I testified to that yesterday.

M. DEBENEST: Good. I shall not dwell on that point.

Did you not also introduce certain legislative clauses as far as nationality was concerned?

SEYSS-INQUART: You mean the nationality of Dutch citizens?

M. DEBENEST: Yes.

SEYSS-INQUART: Yes, I did that.

M. DEBENEST: Did you take part in the arrest, interning, and deportation to concentration camps in Germany of Dutch citizens, and in what way?

SEYSS-INQUART: I should like to explain briefly the matter of citizenship.

M. DEBENEST: Certainly.

SEYSS-INQUART: Quite a few Dutch enlisted in the Waffen-SS. It was the intention of the Führer to give them German citizenship. However, with that they would have lost their Dutch citizenship, and that was something they certainly did not want to happen. Therefore, I issued a decree that upon the acquisition of German citizenship, the Dutch citizenship would not be lost for a year, during which time the person involved could make his decision.

This should serve to clarify the purpose and the object of this decree of mine.

M. DEBENEST: I am going to put to you again the question which I put to you a few minutes ago. Did you take part in arresting, interning, and deporting to concentration camps Dutch citizens, and under what conditions?

SEYSS-INQUART: Bringing anybody into and keeping him in a concentration camp was exclusively a matter for the Police. I do not

recall a single instance in which I requested the Police to put any Dutchman into a German concentration camp. It may have happened that I ordered the German Police to take Dutchmen to Hertogenbosch or Amersfoort. Especially at the time when the Netherlands courts were very lenient with black-market operators and slaughterers who supplied the black market, I did demand their internment in a concentration camp for 2 or 3 months.

However, if you have specific cases in mind, please mention them and you may be assured that I will tell you everything exactly as I remember it.

M. DEBENEST: No, your answer is sufficient.

Did you participate in the seizure of hostages and in their execution?

SEYSS-INQUART: I stated yesterday that I recall only one actual hostage case, which took place in 1942, and I told you what I had to do with it. The so-called shooting of hostages, beginning with July 1944, was not actually shooting of hostages, but rather executions carried out by the Police on the basis of a Führer decree.

I myself never ordered a single shooting. But I would like to repeat: If, for instance, I called the attention of the Police to the fact that in any certain locality of the Netherlands an illegal resistance movement was causing much trouble, and gave the Police instructions to investigate the case, it was perfectly obvious to me that the leaders of the resistance movement could be arrested by the Police who, on the basis of the Führer decree, would shoot them.

But I must repeat: I had to meet my responsibility, even in the face of a difficult situation whereby those who were guilty—that is, legally guilty and not morally, because morally I probably would have acted the same way as they did—those who were guilty were not put before a court.

M. DEBENEST: As far as the facts which you mentioned yesterday are concerned, this deals with hostages who were shot following an attempt upon the railroad at Rotterdam?

SEYSS-INQUART: Yes.

M. DEBENEST: Who selected those hostages?

SEYSS-INQUART: Hostages were selected by the Security Police, and the Higher SS and Police Leader submitted this list to me. As I testified yesterday, I asked why he selected the people that he did and he explained that to me. Then, in checking the matter over, I crossed off the names of fathers who had several children. I returned the list to the Higher SS and Police Leader and asked him to take my attitude into consideration in the execution of this decree.

Therefore, through my direct intervention, I saved fathers of several children from being shot.

M. DEBENEST: How many hostages were selected in this manner?

SEYSS-INQUART: I cannot recall that today, perhaps 12 or 15. Out of that number, 5 remained. That was the number finally arrived at after cutting down on the original figure of 50 or 25.

M. DEBENEST: I am going to have you shown a document concerning the seizure of these hostages. It is Document F-886, which becomes RF-1527. This is a statement made by General Christiansen, or rather, it is a copy of a statement made by General Christiansen, which was taken from an affidavit by the head of the Dutch Delegation. Will you please look at the fourth paragraph before the end of the first statement?

THE PRESIDENT: Have you got the original?

M. DEBENEST: Mr. President, I just said that this was only the copy of a statement which comes from an affidavit of the head of the Dutch Delegation. If the Tribunal desires, we can certainly have the original submitted as soon as we have received it.

THE PRESIDENT: M. Debenest, there is no certificate at all identifying the copy, is there?

M. DEBENEST: I thought, Mr. President, that an affidavit of the representative of the Dutch Delegation existed in Nuremberg. On the original—I beg your pardon; it was not reproduced, but the original does contain the affidavit.

THE PRESIDENT: What are you going to prove by this affidavit? About the hostages?

M. DEBENEST: Yes, Mr. President. It says that the defendant himself selected these hostages.

THE PRESIDENT: In what proceedings was the affidavit made?

M. DEBENEST: Mr. President, it was during the proceedings which were taken against General Christiansen in the Netherlands.

THE PRESIDENT: How do you say it is admissible under the Charter?

M. DEBENEST: Mr. President, I believe that we have already submitted documents of this nature—that is, copies—to the Tribunal, copies which have been certified as being copies of an original which is being kept in the country where it originated.

THE PRESIDENT: If the original from which the copy was taken were a document which is admissible under the Charter, that would probably be so, if there were an authentic certificate saying it was a true copy of a document which is admissible under the Charter. But is this document admissible under the Charter?

M. DEBENEST: Mr. President, I believe that it is admissible because it is purely and simply an affidavit. It is an affidavit which has been legally received in the Netherlands.

THE PRESIDENT: And you haven't got a German edition of it?

M. DEBENEST: Yes, Mr. President, this document has been translated into German. I have had it translated into German.

THE PRESIDENT: M. Debenest, this appears to be a document which is in Dutch, and General Christiansen, who gave the evidence, was a German, was he not?

M. DEBENEST: No, Mr. President, the original affidavit is in Dutch.

THE PRESIDENT: The original is in Dutch, is it?

M. DEBENEST: The original is in Dutch, yes. That is according to the information that I have. Yes, the original is in the Dutch language.

THE PRESIDENT: And what was the affidavit given in, what proceeding?

M. DEBENEST: In Dutch, with interpreters.

THE PRESIDENT: I mean what proceeding, before what court?

M. DEBENEST: I suppose before a Dutch Military Tribunal. Yes, before a Dutch Military Tribunal.

M. CHARLES DUBOST (Deputy Chief Prosecutor for the French Republic): May it please the Tribunal . . .

THE PRESIDENT: Yes, M. Dubost.

M. DUBOST: This document is an excerpt from criminal proceedings in the Netherlands taken against General Christiansen upon the request of the Dutch Government. The Minister of Justice of the Netherlands has let us have an extract of the minutes which were taken in the Netherlands in legal form during the proceedings which were carried on against General Christiansen. The text was, therefore, made in the Dutch language.

THE PRESIDENT: This deposition, this affidavit is in Dutch. Now, General Christiansen, is he a Dutchman?

M. DUBOST: General Christiansen is a German.

THE PRESIDENT: If he is a German why does he give his evidence in Dutch? If he did not give it in Dutch, why isn't the German copy here? You see, we have a certificate here from a colonel, who is said to represent the Government of the Netherlands, that this document is a true copy of General Christiansen's evidence. Well, the document which we have here is in Dutch, and if General Christiansen gave his evidence in German, then it can't

be a true copy and it is subject to the translation in Dutch. What do you say to that?

M. DUBOST: The deposition made by General Christiansen was received through an interpreter in conformity with Dutch procedure and was transcribed in Dutch. It is not possible for a Dutch Tribunal to receive minutes in a foreign language. The minutes are taken in the Dutch language.

THE PRESIDENT: I see.

DR. STEINBAUER: Mr. President, may I just say a few words in this connection, please? I know, for I am in contact with the defense counsel for General Christiansen, that there was a court-martial proceeding on the part of the English instituted against him. I have misgivings about this document, since it is not confirmed, and we cannot judge whether the interpreter who interpreted from German into Dutch was a suitable and adequate interpreter; and also, since in this manner I do not have the opportunity, as defense counsel, to cross-examine General Christiansen. It seems to me that through the mere submission of this document the rights of the Defense have been greatly infringed upon.

M. DEBENEST: Mr. President, I have just been informed that General Christiansen is right now imprisoned at Arnhem by the Dutch authorities.

THE PRESIDENT: Well, Mr. Debenest, the Tribunal will admit the document if you get a certificate from the court who tried General Christiansen. But the only certificate you have at present that this is a true copy is from a Colonel Van—some name that I can't pronounce. There is nothing to show, except his statement, that he is an official on behalf of the Dutch Government. We don't know who he is.

M. DEBENEST: Certainly, Mr. President, but we will get the original for the Tribunal later on.

THE PRESIDENT: Well, you will submit an original later on.

M. DEBENEST: Van—is the accredited representative of the Dutch Government with the French Delegation.

DR. STEINBAUER: Mr. President, I have only a French translation in front of me which reads as follows:

> "Christiansen is not here as a witness, but rather as a defendant, and he was interrogated as such, and he is not bound by oath to tell the truth. He can say whatever he pleases without being held responsible for what he says."

For that reason alone, I believe the document is to be refused.

THE PRESIDENT: Dr. Steinbauer, the reason why the Tribunal is prepared to admit the document, when it is certain that it has got

the document, is that Article 21 provides that reports, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes and the reports and findings of military or other tribunals of any of the United Nations, shall be taken judicial notice of. It is for that reason that the document is, in the opinion of the Tribunal, admissible when the authentic document is before it.

[Turning to M. Debenest.] Now, you undertake then to produce a properly certified copy of the document.

M. DEBENEST: Certainly, Mr. President.

SEYSS-INQUART: May I please comment on this document?

M. DEBENEST: Will you kindly wait until I read to you the passage which I wish to submit to you.

It is on Page 4 of the French text, the fourth paragraph before the end of the first statement, the second paragraph of the page:

> "I think that I can recall that already upon that occasion Seyss-Inquart said that five hostages would be shot. I didn't know any one among these hostages. I did not select these five men, and I had nothing whatsoever to do with their execution. It was a case of a purely political nature in which I became involved in my capacity as commander."

Now you may give us your attitude if you choose to do so.

SEYSS-INQUART: The picture which is given here by General Christiansen as a defendant, not as a witness, completely coincides with the picture that I gave. In the beginning of this record General Christiansen says that Field Marshal Von Rundstedt and the OKW gave him the order through his chief of staff to take the hostages, and he says further that through his legal department he had issued a proclamation that the hostages would answer with their lives if further sabotage acts should take place. He then says that they did take place, and he contacted the Commander, West or the OKW and received the answer that the hostages were to be used. Then he goes on to relate that he advised me of this order, indicating that the original ruling with regard to the hostages still applied, and so I said that 5 of them were to be executed. That is what I have always maintained, and I also said that 25 were to have been killed and that I negotiated for the lives of the remaining 20.

The report, therefore, is fundamentally correct and agrees with what I have said.

M. DEBENEST: But in this document no mention is made of 25 hostages. We are only dealing with the fact here it was you who chose these 5 hostages.

Take the following page of the statement of 5 March 1946. General Christiansen declares:

"I remember now that Lieutenant Colonel Kluter also took part in this conference. There were thus seven participants in all. I therefore transmitted the order to use hostages and Seyss-Inquart said immediately that five men were to be apprehended. You are asking why it was as simple as all that. Obviously Seyss-Inquart had authority to do this."

It was therefore you, in fact, who designated and chose these hostages?

SEYSS-INQUART: The repetition of these words in no wise changes the fact that 25 hostages were demanded, as the witnesses will confirm to you tomorrow, and that I intervened so that only 5 were demanded, and that altogether the entire matter was in the hands of the Army and the Higher SS and Police Leader; the proclamations were issued in the names of both of them. As Reich Commissioner I assumed the right to reduce the number of hostages as much as possible. The final figure was determined by the Commander and the Higher SS and Police Leader.

THE PRESIDENT: M. Debenest, did you read the last paragraph in the affidavit, Page 4 at the bottom?

M. DEBENEST: That is right, Mr. President, I did not read it. I am going to read it.

"I will ask you to note that at this conference with Seyss-Inquart he expressly reserved the right to appoint hostages."

SEYSS-INQUART: I can say nothing more than what I have already said. The selection of hostages was probably made by the Higher SS and Police Leader according to directives which he had received from the Armed Forces commander, or, rather, from his superiors. I myself asked to be shown this list, for I, as Reich Commissioner, was interested in knowing who was to be selected, and I tried to exert influence to the effect, as I have already said, that the fathers of many children were crossed off this list.

Furthermore, I do not wish to be polemic in face of the subjective descriptions of General Christiansen. We got along very well together in our work. The Court will decide whether I am not telling the truth or whether he is mistaken in this case.

M. DEBENEST: That is exactly what I was thinking. You therefore do contend that this is the only case in which you intervened as far as the seizure and execution of hostages is concerned?

SEYSS-INQUART: I believe so, yes.

M. DEBENEST: Did you know about the execution of hostages following the assassination attempt made on Rauter?

SEYSS-INQUART: I stated the extent of my information yesterday. I did not know the exact figure. It was known to me, however, that shootings were taking place, the shooting of those men who, on the basis of their demeanor and actions, were to be shot under the decree of the Führer by the Security Police. The actual figure was made known to me later.

M. DEBENEST: Consequently, you did not intervene in this question of the shooting of hostages at all?

SEYSS-INQUART: No, I cannot say that, for I discussed at length with the deputy of the Higher SS and Police Leader what should be done in such a case—for after all it was a very grave matter—and whether he should carry out these executions; I said yesterday that I agreed. I declared yesterday that I could not contradict him in his decision actually to carry out the executions at this point.

M. DEBENEST: Who was this Police Leader?

SEYSS-INQUART: Dr. Schöngarth.

M. DEBENEST: What do you think of Dr. Schöngarth?

SEYSS-INQUART: I believe that Dr. Schöngarth was not a man who was especially harsh and very eager to deal with this matter. He must certainly have found the matter unpleasant.

M. DEBENEST: But was he a man whom one could trust?

SEYSS-INQUART: I always had confidence in him.

M. DEBENEST: Very well. In that case, I am going to have a document shown to you, Document F-879, which I submit under Number RF-1528.

I wish to inform the Tribunal that once again this is a copy of proceedings which was received at Amsterdam by the War Crimes agency. It is signed by people who were questioned, and it also comes with an affidavit as in the preceding case. Here again, if the Tribunal wishes it, I shall obtain the original for the Tribunal later on.

THE PRESIDENT: Yes, you will submit the original as before.

M. DEBENEST: Certainly, Mr. President.

THE PRESIDENT: Or else get it from somebody in the Government.

M. DEBENEST: Very well, Mr. President.

Defendant, will you kindly look at Dr. Schöngarth's statement on Page 5 of the French document; it is the third statement, the fifth paragraph. Have you found it?

SEYSS-INQUART: Yes, I have.

M. DEBENEST: This is what Dr. Schöngarth says:

"After the investigation, I personally went to see Dr. Seyss-Inquart, the Reich Commissioner in Holland, with whom I discussed the matter. Seyss-Inquart then gave me the order to take increased measures of reprisal by executing 200 prisoners, who were condemned to death, at the place where the assassination attempt had been made.

"This execution was aimed at intimidating the population. It was announced by a public notice that a large number of persons would be executed because of this assassination attempt."

SEYSS-INQUART: Yes.

M. DEBENEST: Well?

SEYSS-INQUART: In any event, it is confirmed that we are concerned here with the shooting of Dutchmen who, as this man says, had been condemned to death for having participated in some sort of sabotage or other matter; they were, in line with the Führer decree, to be shot anyhow. That is the first and most important point. The question is whether the figure of 200 was mentioned; and the question further is whether I demanded that number. I still maintain what I have already said in reply to the testimony of former collaborators; but I also maintain my own declaration to the effect that I never even would have had the power to give an order like that to Dr. Schöngarth. He was not at all my subordinate in such things. I certainly did state that we must act with severity in this case. That is quite right. The figure of 200—I even believe it was 230—only came to my knowledge later. The public notice which he mentions here is signed by Dr. Schöngarth.

M. DEBENEST: You did not say "severe measures"; you said "stricter measures of reprisal." It's not quite the same thing.

SEYSS-INQUART: I did not understand the question.

M. DEBENEST: I repeat: You did not say "severe measures," but "stricter measures of reprisal."

SEYSS-INQUART: The severe measures which were to be taken would, of course, serve to intimidate. But we were not concerned with reprisals; that is, the shooting of people whom otherwise one would have had no reason to shoot.

M. DEBENEST: But it seems to me that this document is extremely clear. It deals with "measures of reprisal" following the assassination attempt against Rauter.

SEYSS-INQUART: Which were to be carried through in such a way that Dutchmen were executed who would have been executed

in any event; for he confirms here that the people had been condemned to death.

M. DEBENEST: Will you kindly repeat the explanation. I did not get the translation.

SEYSS-INQUART: Here we were concerned with the shooting of men who would have been shot in any event, for it says specifically here that they had already been sentenced to death, as it says in the next paragraph.

THE PRESIDENT: I already wrote it down 5 minutes ago. You have said it already. He has said it already. The document speaks for itself, M. Debenest.

M. DEBENEST: Very well, Mr. President.

You stated yesterday as well that no hostage had been shot at the hostage camp of Michelsgestel.

SEYSS-INQUART: That is unknown to me.

M. DEBENEST: Nevertheless, you stated that yesterday. Or are you still claiming that none had been shot at that time?

THE PRESIDENT: Will the defendant answer, please? Don't just nod your head. It does not come through the sound system.

SEYSS-INQUART: I wanted to say only that I know of no case. Perhaps on some occasion such a case did occur, but I do not remember.

M. DEBENEST: Nevertheless, you are not denying that some may have been shot?

SEYSS-INQUART: There might have been reasons which necessitated such a shooting. But I do not recall a single case.

M. DEBENEST: The hostages who were executed in this manner, were they all people who had been sentenced to death?

SEYSS-INQUART: I do not know because I do not know whether anyone was shot at all.

M. DEBENEST: In the case of the execution of hostages at Rotterdam, was not one of the hostages arrested the day before the execution, and shot the very next day?

SEYSS-INQUART: I am not informed on that point. I can see from this document that we are talking about hostages from Michelsgestel. I do not recall that hostages were taken from this camp. But in the circumstances it may have been possible, for this was an actual hostage case.

M. DEBENEST: No. I am not asking you whether hostages were taken from the camp of Michelsgestel. I am asking you, in the case of the execution of the hostages of Rotterdam, whether one was not arrested on the eve of the execution and shot the next day?

SEYSS-INQUART: I do not know.

M. DEBENEST: I will give you the name. Maybe that will help you remember the case: Baron Schimmelpennink.

SEYSS-INQUART: As far as I recall Baron Schimmelpennink came from Zeeland. But I do not know any more than that.

M. DEBENEST: You do not know under what conditions he was arrested, and why?

SEYSS-INQUART: No; I know only that a Baron Schimmelpennink was among those five hostages who were shot.

M. DEBENEST: You therefore do admit that numerous executions followed the setting up of the summary justice courts in the Netherlands by you?

SEYSS-INQUART: No. That is certainly not the case. For these shootings, from the middle of 1944 onward, cannot be traced to my directives and my summary justice courts, but rather to a direct decree of the Führer.

M. DEBENEST: You therefore claim that there was not a single case of execution as a result of your order of 1 May 1943?

SEYSS-INQUART: The executions did not come about on the basis of summary courts which I had provided for in this decree against violations of this decree. It is possible that the Higher SS and Police Leader used this decree as the basis for his decisions.

M. DEBENEST: But you are still contending that you had no power over this Police Leader?

SEYSS-INQUART: I did not have the power to command him, but we certainly worked together in a close understanding.

M. DEBENEST: He therefore consulted you about all reprisal measures?

SEYSS-INQUART: No. How do you mean?

M. DEBENEST: Were not the reprisal measures which were taken or which were announced by him applied with your agreement?

SEYSS-INQUART: The reprisal measures and his announcements were made in his domain. In many cases I myself did not learn of these announcements at all, or not until afterward. There was no directive which I gave for these measures. I again and again refer to the fact that this resulted from the Führer decree given by Himmler to the Police.

M. DEBENEST: Very well. Were you in favor of these measures of reprisal?

SEYSS-INQUART: I fully approved of action being taken against members of the resistance movement who committed sabotage and other acts. There were no other means for taking steps except arrest by the Police, passing of judgment on the part of the Higher SS and Police Leader, and shooting on the part of the Police. I could not oppose these measures. You may interpret that as agreement, if you want to. I would have preferred it if courts had given the judgment.

M. DEBENEST: Yes, certainly.

I am going to have you shown Document F-860, which is a letter which I am submitting under Number RF-1529. This is a letter written by you, dated 30 November 1942 and addressed to Dr. Lammers. I will pass over the first part.

I am sorry. I forgot to tell the Tribunal that the originals are not here; they are just photostat copies. But I have in my possession an affidavit which I shall submit to the Tribunal.

THE PRESIDENT: It is all right, M. Debenest. You need not bother to give us an affidavit. We have the photostat copy.

M. DEBENEST: I will pass over the first two pages of the French copy, and will pass on to the second paragraph.

> "The drafting of the special police law (Polizeistandrecht) was effected in accordance with the views expressed in a letter of the Reichsführer SS. I believe that I have conformed with all the wishes which are contained in it, only I would not like to appoint the Higher SS and Police Leader as court administrator, for, from the point of view of the Dutch, this would mean a curtailment of the authority of the Reich Commissioner, particularly in view of the fact that the Reich Commissioner is designated in the Führer decree as the guardian of the interests of the Reich. However, in the decree I have assigned to the Higher SS and Police Leader all the powers which a court administrator needs. I believe that this special police law may be a useful instrument and to a certain extent an example for all further regulations."

You did, therefore, have authority over the Police Leader?

SEYSS-INQUART: I had the authority over the special police court, but not over the Higher SS and Police Leader. I remained the top court administrator, even for the police court in an emergency state. All the same I could not give executive orders to the Police. Anyway, this police law existed in the Netherlands for two weeks at the most.

M. DEBENEST: It is nevertheless certain that we here find special tribunals and that you entrusted them to the Police Leader.

SEYSS-INQUART: Yes, that is correct, but only within the scope of police courts in an emergency state, and what the police courts did at that time I assume responsibility for. This was on occasion of the general strike in May 1943.

M. DEBENEST: Well, we quite agree then. You did entrust these emergency courts to the Police.

Very well, I will now have you shown Document 3430-PS. This document is a collection of all the speeches which you made during the occupation of the Netherlands. Will you please take . . .

THE PRESIDENT: M. Debenest, is that the only reference you are making to this Document Number 860?

M. DEBENEST: Yes, Mr. President, I am only concerned with the second part. The first part concerns the Police.

THE PRESIDENT: Don't you think it is imposing a very heavy burden on the Translation Department? There are 18 pages of it.

M. DEBENEST: Mr. President, I quite agree with you. I intended to use this document for the police organization, which is in the first part. But I did not think it was necessary to do so right now because I wished to save time.

THE PRESIDENT: I only mean this: If you are only going to use a small part of the document it does not seem necessary to make the Translation Department, who have a very great deal of work to do, translate 18 pages of it.

Here's another one—F-803, which has got many more than 18 pages in it, and of which very little use has been made. But go on.

M. DEBENEST: I know, Mr. President. I did not use more of it because the Tribunal considered that it dealt with details which it did not consider important. That is the only reason.

THE PRESIDENT: You have passages on each of these 18 pages? I am very much surprised.

M. DEBENEST: Certainly not, Mr. President.

THE PRESIDENT: Go on, anyway.

M. DEBENEST: Very well, we will now pass to another subject.

When you arrived in Holland, didn't that country possess very considerable stocks of foodstuffs and of raw materials?

SEYSS-INQUART: Yes, a great many supplies were on hand. An extraordinary amount.

M. DEBENEST: Were not important requisitions made during the first years of the occupation?

SEYSS-INQUART: Yes, in accordance with a decree within the scope of the Four Year Plan all supplies were requisitioned and a

6 months' reserve supply was set up in the Netherlands with the obligation on the part of the Reich to supply all further needs as required.

M. DEBENEST: You therefore claim that these stocks were to be reserved for the Dutch population?

SEYSS-INQUART: Certainly.

M. DEBENEST: Certainly? Very well. Will you take the document which I have shown to you this morning, 997-PS, Pages 9 and 10.

SEYSS-INQUART: Do I have the document before me?

M. DEBENEST: Page 12 of the French text and Page 11 of the German. You write:

> "The stocks of raw materials have been collected and with the agreement of the Field Marshal have been distributed in such a manner that a quota sufficient to keep Dutch economy running for 6 months will be left behind. Raw material quotas and food rationing, *et cetera,* will be assigned the same way as in the Reich. Considerable stocks of raw materials have been guaranteed for the Reich, such as, for example, 70,000 tons of industrial fats which represents about one-half of the amount which the Reich still needs."

SEYSS-INQUART: I believe that coincides with the description I have just given you.

M. DEBENEST: But I thought you said that the stocks were at the disposal of the Dutch people and not for the Reich?

SEYSS-INQUART: No, that is an error in transmission. I said that the supplies were confiscated and enough left there for only 6 months and that future needs would be supplied by the Reich in the same proportion as the Reich was supplied. But primarily these stocks were confiscated for the Reich.

M. DEBENEST: Very well, the translation did not come through. You received numerous complaints about these requests, didn't you?

SEYSS-INQUART: Yes.

M. DEBENEST: And what measures did you take?

SEYSS-INQUART: The attention of the gentlemen who were with me, that is, Secretary General Hirschfeld and the other secretaries, was called to the fact this was a strict directive in the framework of the Four Year Plan. In some cases I may have transmitted the complaints to the Delegate for the Four Year Plan, if the stocks were taken away in what seemed to me excessive quantities.

M. DEBENEST: In addition to these requests, were there not mass purchases made by the Reich?

SEYSS-INQUART: Yes . . .

THE PRESIDENT: Shall we adjourn now? Will you be much longer, M. Debenest?

M. DEBENEST: Mr. President, everything will depend upon the length of the answers which the defendant will make, but I think that in half an hour or three-quarters of an hour at the most I shall have finished.

THE PRESIDENT: Very well, then we will adjourn.

[The Tribunal adjourned until 12 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-THIRD DAY

Wednesday, 12 June 1946

Morning Session

[The Defendant Seyss-Inquart resumed the stand.]

MARSHAL (Colonel Charles W. Mays): May it please the Tribunal, the report is made Defendants Hess and Jodl are absent.

M. DEBENEST: Defendant, you agree that very important stocks were sent to Germany?

SEYSS-INQUART: Yes, that is quite true.

M. DEBENEST: Concerning another system, for pillage, used in the Netherlands, I would like to submit to you a document which indicates moreover that you were not the only one to participate in this pillage; but Göring and the OKW are involved too. This is Document F-868, which becomes Exhibit RF-1530. It concerns a teletype message which is addressed to you by the OKW and which is signed Reinecke. This teletype message is dated 5 December 1940 and begins as follows:

> "Meeting at the office of the Reich Marshal on 7 October 1940. Regulation concerning the dispatch and the taking of merchandise from Holland by members of the Armed Forces or of the units attached to it.
>
> "In agreement with the Reich Marshal and the Reich Commissioner for the occupied Netherlands territories, the regulations in force up to now concerning the dispatch and the taking of merchandise out of Holland are rescinded. Members of the Armed Forces and of the units, organizations and affiliations attached to it"—then follow the designations of these organizations—"as well as the officials of the services employed in Holland, can, within the means at their disposal, send home by military post packages of a maximum weight of 1,000 grams, without any limit on their number. If the parcels weigh more than 250 grams. . . ."

I won't read what follows; it deals with a question of postal rates.

> "The taking along of merchandise on the occasion of furlough or other crossing of the frontier is not subject to any restriction."

This regulation was drawn up with your agreement, was it not?

SEYSS-INQUART: "Agreement" is putting it a little strongly in this case. An authority for confiscation is not involved here, but rather only instructions for transport. These things had to be bought in some manner. They could not be confiscated. The Reich Marshal decreed this and I put it into force. That was the so-called "Schlepp-Erlass," meaning that any soldier who returned from the Netherlands could bring with him as much as he could carry of any of the things he had bought. And I then gave this order for civilians in accordance with the military decree. I believe this decree was rescinded after 2 years, for the fact was constantly brought up that it, in particular, promoted the black market.

M. DEBENEST: I did not say that it concerned requisitions. Yesterday I said to you that there had been mass requisitions and you answered that this was correct. Today I tell you, and I submit this document in order to demonstrate to you, that there was also another way of pillaging the produce of the Netherlands.

SEYSS-INQUART: But previously you did mention confiscation. I only wanted to correct that point.

M. DEBENEST: I merely spoke yesterday of it. Let us go on. Will you tell me what the task was of the Delegate for the Four Year Plan?

SEYSS-INQUART: I do not recall the wording of this decree. I believe it has been read here. At all events it dealt with the organizing of the entire economic wealth within the German sphere of interests in favor of the policy carried on by Germany and during the war, in favor of the war economy, of course.

M. DEBENEST: Who ordered the liquidation of the property of the Freemasons?

SEYSS-INQUART: I must admit that I really do not know that. My attention was called to the case after the property had been confiscated. I assume that this emanated from Himmler by way of Heydrich.

M. DEBENEST: Well, I will refresh your memory, I will have handed to you Document F-865, which becomes Exhibit RF-1531. It concerns a letter which comes from you, doesn't it? It is dated 11 March 1944. It is signed by you, isn't it?

SEYSS-INQUART: That is absolutely correct.

M. DEBENEST: Good. You express yourself as follows in this letter:

"Dear Dr. Lammers:

"I have had the property of the Freemasons in the Netherlands liquidated. As the liquidation took place through me,

that is to say, through a government office, unlike the liquidation in other areas, it is for the Reich Finance Minister to decide on the further utilization thereof.

"I have written a letter today to the Reich Finance Minister, and I enclose a copy of it for you. I beg you to support my suggestion."

You, therefore, did not hear of this liquidation until after it had been undertaken, since you yourself had undertaken it, isn't that true?

SEYSS-INQUART: I still entirely uphold my first assertion. The question was who decreed this; I understood you to ask me who was the person in the Reich who demanded this. It is a fact that I did not hear about this whole matter until a few months had passed. Then I took over this liquidation and had it carried through to the end through my offices, and then I wrote this letter. Thus the execution rested with me.

M. DEBENEST: You said just now—and I understood the translation very clearly—that you heard of it only after it had been done. You contradicted your own declaration, as I was able to note yesterday on several occasions, when the documents were submitted to you.

SEYSS-INQUART: I did not understand that. Is that a question to me?

M. DEBENEST: I am simply making a remark.

Was this liquidation of the property of the Freemasons a big undertaking?

SEYSS-INQUART: Yes, certainly. I should like to say that it was started by another office. The property was confiscated, then I took over this task and had it carried through by my competent offices.

M. DEBENEST: Did you make arrangements for the utilization of the funds which this liquidation produced?

SEYSS-INQUART: I made the proposal that this money be given to the Party.

M. DEBENEST: You discussed this beforehand?

SEYSS-INQUART: I wrote a letter as well. I believe the enclosure to my letter to the Finance Minister, which was mentioned just now, contains the proposal that this property be given to the Party.

M. DEBENEST: Did you not threaten to let the people of the Netherlands starve as a result of the railroad strike in September 1944?

SEYSS-INQUART: You can look upon it as a threat, but in any event I described it as very probable.

M. DEBENEST: You asked the secretary general to stop this strike?

THE PRESIDENT: M. Debenest, the Tribunal would like to have further investigation as to who ordered the confiscation of the Freemasons' property.

Defendant, do you know who ordered the confiscation?

SEYSS-INQUART: Yes, I do. The confiscation was ordered by Heydrich and was set in motion by the Police. Then a trustee of the Party started the actual liquidation and at that stage I took it over and transmitted it to my offices.

M. DEBENEST: At what date was this liquidation ordered?

SEYSS-INQUART: In the first few months. The whole thing went very rapidly. It was only a matter of weeks.

THE PRESIDENT: Was any reason given for it?

SEYSS-INQUART: The Freemasons were declared to be enemies of the Reich according to the decree about the taking over of the property of those who were inimical to the Reich.

THE PRESIDENT: Was the order of Heydrich in writing?

SEYSS-INQUART: That I can't say. It went to the Security Police, and the commander of the Security Police insured its execution. I assume that it was a teletype message, although this entire action might have been planned in advance.

THE PRESIDENT: Well, do you mean that you carried it out without having any order in writing about it at all?

SEYSS-INQUART: I received a report from the Security Police—it may have been in writing, or it may have been oral—that this confiscation was being carried through by the RSHA, and I took over this matter at this stage.

THE PRESIDENT: What was the amount involved by the confiscation?

SEYSS-INQUART: I believe the final amount of the liquidation was more than 8 or 9 million guilders.

THE PRESIDENT: And then I think you said that you proposed that it should be handed over to the Party.

SEYSS-INQUART: Yes, I proposed that these 9 million guilders be turned over to the Party.

THE PRESIDENT: And were they?

SEYSS-INQUART: No, I received no decision. This property must have remained in the Netherlands in some form of securities, probably in treasury bonds.

THE PRESIDENT: You were the Reich Commissioner for the Netherlands, weren't you? What happened to the money?

SEYSS-INQUART: The money was deposited in a bank account, and perhaps Dutch treasury bonds were bought. It was treated as a separate fund, and it was not used.

THE PRESIDENT: But this was all in 1940, wasn't it?

SEYSS-INQUART: I estimate that the liquidation continued until the year 1942, and from that period on the money remained in a bank account.

THE PRESIDENT: What was the bank?

SEYSS-INQUART: That I cannot tell you, Mr. President. But there is no doubt that the Dutch have ascertained this.

THE PRESIDENT: And when you said it was confiscated in the first few months, you meant in 1940, did you?

SEYSS-INQUART: Yes, immediately after the invasion.

THE PRESIDENT: Go on, M. Debenest.

M. DEBENEST: Were the funds from this liquidation utilized in the same way as the money from the liquidation of Jewish property?

SEYSS-INQUART: For the most part the proceeds from the liquidation of Jewish property were transferred to the Administrative Office for Property and Pensions. The funds were not absorbed, but certain expenditures were met from them. For instance, the erection of Vught Camp was paid for from these proceeds. The funds derived from the liquidation of Jewish property amounted to perhaps 400 million guilders or slightly more. However, they were not taken over.

M. DEBENEST: How were the funds actually used? Were they used for the purpose of the German Government or for other purposes?

SEYSS-INQUART: The Jewish property, first of all, was confiscated. Then, as far as possible, it was liquidated, and we called that "Aryanization." The proceeds of the Aryanization were pooled in the Administrative Office for Property and Pensions, but as a whole were not...

M. DEBENEST: Pardon me, but will you answer more directly without recounting to us how this liquidation was effected. I asked you about the utilization of the funds.

SEYSS-INQUART: The funds were not used at all. The 400 million guilders must have been placed on deposit in the Administrative Office for Property and Pensions of the Netherlands, partly in Dutch treasury bonds and partly in the original securities. Only relatively small amounts were used for certain purposes. I believe the largest amount was 14 million guilders which was used for the erection of Vught Camp.

I called the attention of the Reich Finance Minister . . .

M. DEBENEST: Excuse me. I asked you a question. Were the funds from this liquidation used for the benefit of the Reich? Yes or no?

SEYSS-INQUART: No, unless you call the erection of the Vught Camp using the proceeds for the Reich; but the funds were used because Vught Camp was to be a Jewish assembly camp.

M. DEBENEST: So you consider that the building of the Vught Camp was in the interest of the Dutch?

SEYSS-INQUART: Most certainly it was. The cost of Vught Camp, as far as I was informed, was covered out of this property—I believe 14 million guilders were spent—because this camp was to be a Jewish assembly camp. It was only later that Himmler transformed this into a concentration camp.

M. DEBENEST: That is an opinion, and the Tribunal will decide about it. But regarding the property of the Freemasons, what was done with the sums produced by this liquidation, exactly how were they utilized—for the Reich, or also for the construction of concentration camps in the Netherlands?

SEYSS-INQUART: Neither the one nor the other.

THE PRESIDENT: M. Debenest, he has said already, hasn't he—I thought he said quite clearly on deposit in some unknown bank, and that there were about 400 million which came from the Jews.

SEYSS-INQUART: Mr. President, I know the bank. The property of the Jews is deposited in the "Vermögens-Verwaltungs und Rentenanstalt."

M. DEBENEST: Well, I am now going to submit to you a document, which is a letter, Number F-864, which becomes RF-1532. This document states exactly the destination of the property which was thus liquidated. First, you indicate at the beginning of the letter that the total resulting from the liquidation amounted, as you say, to 6,134,662 guilders up to that date, and you indicate that this sum is located in the Reich Foundation (Reichsstiftung) of the Netherlands. This is a German organization, and not a Dutch organization, as far as I understand. You indicate further on how the various sums were to be allocated.

THE PRESIDENT: I think you don't need trouble about the details of where it is. He says it is there in the bank.

M. DEBENEST: Exactly, Mr. President, I would merely like to read the few lines at the end where he states exactly the purpose of the allocation of the various sums.

> "I believe I am complying with your intentions if I assume, with reference to this liquidated Freemasons' property, that it too, as we discussed with reference to Jewish property, should be used for specific purposes within the Netherlands, according to an agreement to be reached between us."

Consequently, your intention was to use the sums in the same manner as the Jewish fortunes, wasn't it?

SEYSS-INQUART: It doesn't say that at all.

M. DEBENEST: We have it in writing. That's still better.

SEYSS-INQUART: The purpose of utilization is perfectly plain. The Reich Minister of Finance wanted to exercise control over Jewish capital; and I called his attention to the fact that it had not been called in, suggesting to him not to call this money into the Reich but to wait and see what the course of events would be.

M. DEBENEST: Were you not proposing to him here that it should be utilized for the same purpose?

SEYSS-INQUART: I suggested to him to use it for certain purposes in the Netherlands, that is, not to send this money into the Reich, but to leave it in the Netherlands; but the use to which it was to be put was left entirely open. He wanted to bring it to the Reich.

THE PRESIDENT: M. Debenest, I think you can pass on.

M. DEBENEST: I was just thinking that we could leave that to the judgment of the Tribunal.

Let us come back to the matter of these railroad strikes. Did you not ask the secretaries general to stop these strikes?

SEYSS-INQUART: Yes.

M. DEBENEST: Did you not put an embargo on the means of transport and on the food in transit?

SEYSS-INQUART: Certainly.

M. DEBENEST: That was you, was it not?

SEYSS-INQUART: Yes, I said that yesterday.

M. DEBENEST: Consequently, you knew very well at that time what the food situation was in Holland and the grave consequences which would inevitably result from the decision which you made—a very serious decision.

SEYSS-INQUART: No, not really. The fact was that traffic had already been disrupted because of requisitioning by the Armed Forces, and it was only a question of finding a *modus vivendi* and after insuring the needs of the Armed Forces, which appeared urgent to me, of resuming the transport of foodstuffs into Holland. If the railroad strike had not taken place, I would have succeeded in persuading the Armed Forces to refrain from requisitioning, and navigation would have been left undisturbed.

M. DEBENEST: But we are not discussing the Armed Forces. You knew very well that the moment you placed this embargo on ships, on the fleet, that it was the time when they were transporting foodstuffs for the winter to Holland.

SEYSS-INQUART: Yes, at the moment when I declared the embargo, there was actually no more traffic; and the few ships carrying food were requisitioned by the Armed Forces together with the foodstuffs.

M. DEBENEST: Then your decision was useless?

SEYSS-INQUART: No, because in making this decision I prevailed upon the Armed Forces to make the requisitioning as short as possible and they promised me that the ships which I earmarked would not be interfered with by them.

M. DEBENEST: How long did this embargo last?

SEYSS-INQUART: I believe that between 15 and 20 October I instructed the chief of my traffic department to lift the embargo. Actually, it lasted some weeks longer because the Dutch traffic organization didn't function.

M. DEBENEST: Until what date, approximately?

SEYSS-INQUART: It may have lasted until the middle of November.

M. DEBENEST: Was not that the period when the traffic was heaviest?

SEYSS-INQUART: That is quite correct. In November and December we could only bring enough foodstuffs to Holland to tide us over these 6 weeks of frost, at the most; and in September I was of the firm conviction that in November and December the shipping facilities would be at my disposal.

M. DEBENEST: And actually, did you obtain them?

SEYSS-INQUART: Unfortunately, no. For due to the failure of the Dutch traffic authorities, coupled with the other war conditions, these facilities were not at my disposal.

M. DEBENEST: But you knew very well that the decision which you were making was fraught with grave consequences?

SEYSS-INQUART: In September this decision was not as serious as the fact that the Armed Forces, in view of the railroad strike, was in sore need of this transport and these facilities; and as it was up to me to safeguard the Reich's interests, there could be no graver accusation against me than for the German people to say that I did not do everything humanly possible to help to win the struggle.

M. DEBENEST: The Tribunal will take note of your answer.

THE PRESIDENT: M. Debenest, you dealt with the subject yesterday, didn't you?

M. DEBENEST: I do not think I did, Mr. President.

THE PRESIDENT: Well, the embargo on shipping surely was gone into yesterday.

M. DEBENEST: Mr. President, I think I spoke yesterday only of the requisitions which were carried out and I only asked one or two questions of an economic nature. I do not think I touched upon this subject. If I did, I apologize to the Tribunal. In any case, I am finished with it.

[Turning to the defendant.] What was the position of the Netherlands Bank on your arrival in 1940?

SEYSS-INQUART: The Netherlands Bank as an issuing bank was, I believe, set up primarily on the basis of a private bank. The president was Mr. Trip. The State probably had a certain influence, since it served as the issuing bank.

M. DEBENEST: Give us a briefer explanation.

SEYSS-INQUART: Then it would not be stating the whole truth.

M. DEBENEST: Did the gold reserves cover the amount of notes issued?

SEYSS-INQUART: I assume so on the basis of the gold cover or the reserves of gold currency. In fact the gold cover was higher than the amount of notes issued. The Netherlands Bank had more gold and more gold currency, than it had notes issued.

M. DEBENEST: And what was the position at the time of the German capitulation?

SEYSS-INQUART: There were several thousand million guilders in paper money in circulation, and perhaps another 23 million in gold guilders.

M. DEBENEST: But, above all, Reichsmarks?

SEYSS-INQUART: No, I said 23 million guilders in gold. The rest of the coverage might have been bills from the Reich.

M. DEBENEST: Was it not you who ordered the abolition of the "Currency Frontier"? Will you answer?

SEYSS-INQUART: Yes.

M. DEBENEST: Were you absolutely in agreement with the necessity for abolishing these frontiers?

SEYSS-INQUART: The proposal originated in my office. I took it over. Mr. Trip protested. I sent it to Berlin. In Berlin the Reich Marshal decided in its favor. The Reich Minister Funk was against it; I carried out the proposal which I had made and which had been approved by the Reich Marshal.

M. DEBENEST: But personally you agreed with it?

THE PRESIDENT: What do you mean exactly by the Currency Frontier that you are dealing with now? We merely want to understand what you are talking about.

M. DEBENEST: I mean the free circulation of German currency in Holland.

[Turning to the defendant.] Did not Holland also have to pay large sums in the form of so-called voluntary contributions, among other things, for the war against Bolshevism?

SEYSS-INQUART: I believe I have explained this matter quite clearly. The Reich demanded during a certain period of time, as direct occupation costs, 50 million marks for the defenses of Holland. In Holland we called this a "voluntary contribution" for obvious political reasons. In reality it was a demand of the Reich which would have had to be paid one way or another, and I would not lay it to the charge of any Dutchman that he paid this contribution voluntarily.

M. DEBENEST: You agreed to these measures, did you not?

SEYSS-INQUART: Yes.

M. DEBENEST: What were the economic and financial consequences of all these measures?

SEYSS-INQUART: The financial consequences were a greatly increased circulation of bank notes, and extremely large banking accounts which remained the same in the Reich as in all occupied countries. We applied one system in Holland, another in France, and in view of the collapse of the Reich, the financial consequences were the same. If Germany had not lost the war, Holland would have had a claim of more than 4,500 million guilders against a sovereign Germany.

M. DEBENEST: Good. Will you then look at Document 997-PS, which you had in your hands yesterday. I will read to you what you thought of these measures. It is Page 14 of the French text

and Page 12 of the German text. It is the big Seyss-Inquart report, RF-122, 997-PS.

You write there—and I am reading from the sixth line:

"This regulation goes far beyond all similar regulations which have been introduced so far with the national economics of neighboring countries, including the Protectorate."

Page 12 of the German text, 14 of the French:

"It actually represents the first step toward a currency union. In consideration of the significance of the agreement, which almost affects the independence of the Dutch State . . ."

And then you add:

". . . it is of decisive importance that the president of the bank, Trip, who is very well known in western banking and financial circles, signed this agreement of his own free will in the above sense."

That was your impression of these measures, was it not?

SEYSS-INQUART: That is true, but I must admit today that the opinion I held at that time was wrong. Otherwise I would incriminate the bank president, Herr Trip, too deeply. What is written down here is not yet the situation as it existed later when the Currency Frontier was abolished. This was only the agreement between the two issuing banks concerning the unlimited acceptance of bank notes. I should also like to refer to the statements which I made about the qualities of Herr Trip. The fact that he gave his approval does, in my eyes, establish the admissibility under international law.

M. DEBENEST: Did you not state that it affected the independence of the occupied country?

SEYSS-INQUART: That was an exaggerated optimism in my presentation of the facts.

M. DEBENEST: Very well, the Tribunal will judge as to that. On the other hand, you contemplated the suppression of customs barriers?

SEYSS-INQUART: I did not understand your question.

M. DEBENEST: You do not wait until you have had the translation. How can you expect to understand? I said: Did you not contemplate the suppression of the customs barriers?

SEYSS-INQUART: Yes.

M. DEBENEST: Were there not in the Netherlands certain agencies which were charged with the looting of art objects?

SEYSS-INQUART: I cannot call it looting, but at any rate the administration and care of them, and so forth.

M. DEBENEST: That is your opinion. At any rate there were several agencies?

SEYSS-INQUART: Yes.

M. DEBENEST: You are particularly well acquainted with the agency of Dr. Mühlmann?

SEYSS-INQUART: Yes.

M. DEBENEST: Who called him to the Netherlands?

SEYSS-INQUART: I sent Mühlmann to the Netherlands ahead of me so that he could arrange for premises for my offices.

M. DEBENEST: But it was only to set up your offices?

SEYSS-INQUART: At that time, only to set up the offices.

M. DEBENEST: But later?

SEYSS-INQUART: Mühlmann then left and some time after he returned as an agent of the Four Year Plan, for the safeguarding of works of art. It was similar to what took place in Poland.

M. DEBENEST: What do you understand by "safeguarding"?

SEYSS-INQUART: In point of fact—I do not want to talk a lot about it—but actually he had to determine whether there were any works of art in the confiscated fortunes and then he had the task of reporting these works of art to the various Reich offices.

M. DEBENEST: Only to report them?

SEYSS-INQUART: Yes, because the purchasing was taken care of by these various offices themselves. I assume—that is, I know—that he also dealt privately in works of art, as an intermediary.

M. DEBENEST: Did you also obtain some pictures for yourself through his mediation?

SEYSS-INQUART: Yes. Not for myself, but for the purposes that I described yesterday.

M. DEBENEST: Yes. You also stated yesterday that you had placed in safekeeping a large number of works of art, particularly pictures. What was your purpose in doing this?

SEYSS-INQUART: Many works of art I secured only in the sense that when the decree about confiscation of enemy and Jewish property came out, they were secured and liquidated. I bought perhaps three or four pictures which, as I mentioned, were to be presented as gifts to the Museum of Art History in Vienna.

M. DEBENEST: No, no, I asked you for what purpose you placed these works of art in safety.

SEYSS-INQUART: The confiscation of Jewish and enemy property had, as its primary purpose, sequestration; but in time it

became clear that these art treasures were being bought by the Reich. These three or four pictures I purchased with the immediate purpose of giving them to certain Reich institutions, the Museum of Art History in Vienna, for instance.

M. DEBENEST: But there was not only Jewish property there.

SEYSS-INQUART: I said enemy property as well, but that was not enemy property in general, but only in cases where a specially hostile attitude towards the Reich was proved. Such property was confiscated also.

M. DEBENEST: Very well. That is what you wrote in a document which has already been submitted to the Tribunal, and which you certainly know. It is Document F-824, submitted under Number RF-1344. You know that document. It is a letter which came from you and is addressed to Dr. Lammers. This letter concerns the acquisition of pictures, which was done for the Führer. In Paragraph 3 of this document, in the French text, you write as follows:

> "From the list which had been submitted to me I deduce that in this manner a comparatively large number of valuable pictures has been secured which the Führer was able to acquire at prices which, according to investigations which I have made in the country, must be described as extraordinarily low."

Then you add that Rembrandt's self-portrait had been found again, thanks to Mühlmann.

Consequently, the placing in security of works of art was clearly a means of allowing the Reich authorities to take them into Germany; isn't that true?

SEYSS-INQUART: There is no doubt about that. Regarding the Rembrandt picture, I should only like to say that it had come into Holland illegally; and therefore it was confiscated.

M. DEBENEST: And it was taken to Germany by legal means?

SEYSS-INQUART: I believe that in the case of the Rembrandt picture there was no question at all, because in this case a German regulation had been violated.

M. DEBENEST: In addition to paintings, you also procured for yourself a large number of works of art and diamonds, precious stones, and so on?

SEYSS-INQUART: I know nothing about that.

M. DEBENEST: You know nothing about that, but do you know that you have a house in Vienna at Untergasse, Number 3?

SEYSS-INQUART: No, that is Iglauer Strasse 15. However, that may be true, yes.

M. DEBENEST: Had you not deposited a certain number of works of art which had come from the Netherlands?

SEYSS-INQUART: I know nothing about that.

M. DEBENEST: Well, I will pass on to something else.

Who ordered the confiscation of the property of the Royal House?

SEYSS-INQUART: I personally.

M. DEBENEST: Therefore you took the initiative in this matter?

SEYSS-INQUART: Well, not only was I the instigator, but I decided to do that and I carried the decision through.

M. DEBENEST: So you only carried it through?

SEYSS-INQUART: Yes, I also carried it through.

M. DEBENEST: I did not ask if you also carried it through. I asked quite clearly if you only executed this order?

SEYSS-INQUART: No, I stated very clearly yesterday the reasons why I decided to confiscate the royal property. I also carried out the confiscation.

M. DEBENEST: You maintained that it was the result of a speech made by the Queen. Isn't that what you stated yesterday?

SEYSS-INQUART: Yes.

M. DEBENEST: I will show you Document F-828, which I submit under Number RF-1533. This document is a letter from Reichsleiter Martin Bormann to Reich Minister Dr. Lammers of 3 July 1941. At the beginning of the letter Bormann discusses the speech of the Queen of Holland; and in the last paragraph, which is the one which is important to me, he writes:

> "The Führer has therefore given permission to confiscate the property of the Netherlands Royal House, for which the Reich Commissioner had already applied at an earlier date."

Do you still maintain that it was because of the speech made by the Queen?

SEYSS-INQUART: I beg your pardon. There was a hitch in the sound apparatus.

M. DEBENEST: Yes, there was, but in any case you have the document in your hands.

SEYSS-INQUART: Yes. I know what the question is here.

M. DEBENEST: Of course you know it.

SEYSS-INQUART: It had escaped my memory entirely, that I might have asked for that permission at an earlier date. I really cannot remember. Perhaps I discussed the question as to whether this property was to be confiscated or not, but the only thing I do remember is my suggestion at the time this speech was made. After all, that was not the first speech made by the Queen of the Netherlands. She had spoken in the same manner previously.

M. DEBENEST: That is an explanation, and the Tribunal will take note of it.

Now, in regard to the looting of the Netherlands and the attempt to nazify and germanize that country—were these not the actions of the civil government of which you were the head?

SEYSS-INQUART: Yes and no. It is quite obvious to me that from the economic point of view the Dutch people considered our conduct as looting. Seen from the legal point of view I do not think it was. I did not germanize the Netherlands in any way.

M. DEBENEST: Will you take Document 997-PS, Page 26 of the French text and Page 22 of the German text? I refer to the section of your report entitled "Remarks." Have you got it? I will read the remarks which you made concerning your own activities. That was on 18 July 1940:

> "2) The administration is at present sufficiently under the direction and control of the German authorities and will be increasingly so in the future.
>
> "3) The national economy and communications have been set in motion again and adapted to a state of war. Plans are on foot for large-scale reconversion geared to the continental economy, and practically everything is ripe for this change-over. Stocks in the country have been placed at the disposal of the Reich war economy. Nearly all the financial resources"—that is in 1940—"have been made available and placed under the control of the Reich, all this on the basis of extensive co-operation by the Netherlanders."

Isn't that exactly what you wrote? Isn't that exactly what you thought?

SEYSS-INQUART: Yes, and I believe that any occupation power would fully understand Point 2, and Point 3 was a constructive conception of a new Europe.

M. DEBENEST: That is an opinion which the Tribunal will judge.

I would like to return briefly to the Jewish question. You stated yesterday that you protested against the deportation of 1,000 Jews to Mauthausen or Buchenwald and that there had been no more deportations to these camps. But why did you not protest against

the transports to Auschwitz? Did you think that this camp was very different from the other two?

SEYSS-INQUART: Naturally, because Mauthausen and Buchenwald were concentration camps, whereas I was informed that Auschwitz was an assembly camp in which the Jews were to remain until such time as the war would be decided or some other decision would be made.

M. DEBENEST: Before coming to the Netherlands you had been adjutant to the Governor General of Poland?

SEYSS-INQUART: Not adjutant, but the deputy.

M. DEBENEST: All the better. Consequently you had heard about this camp, had you not?

SEYSS-INQUART: At that time Auschwitz did not even exist.

M. DEBENEST: But did you not know that the ashes of those 1,000 Jews who had been sent to Buchenwald or Mauthausen were sent back to their families against payment of 75 guilders? This happened in 1941. That did not prevent you later on from taking other measures against the Jews, measures which necessarily led to their being deported?

SEYSS-INQUART: Because to my thinking this measure, which was first of all called an evacuation, is something completely different from a deportation or removal to a concentration camp.

M. DEBENEST: But after all you knew the fate of these Jews who were transported to a camp in this manner?

SEYSS-INQUART: Most people, the great majority, did not know of this fate as it is known to us today; and I testified yesterday as to my misgivings.

M. DEBENEST: That is an opinion. You spoke yesterday of reprisals taken against the newspaper in The Hague . . .

THE PRESIDENT: *[Interposing.]* Is this something you cross-examined about yesterday?

M. DEBENEST: These are questions which were handed to me this morning as a result of statements made yesterday by the defendant. Otherwise I have finished.

THE PRESIDENT: The Tribunal thinks you should not go over this matter again.

M. DEBENEST: Then I have finished, since all of the questions concern either hostages or—

There is still one question which I would like to ask, if the Tribunal permit; it is a question about the flooding. All the other questions I had in mind concern hostages; and if the Tribunal so wishes,

I will not ask them. However, may I be permitted to ask a question concerning the flooding?

THE PRESIDENT: The Tribunal thinks that you went over the flooding yesterday. I don't know.

M. DEBENEST: Then I have finished, Mr. President.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: The Tribunal will adjourn this afternoon at 4:45 in order to sit in closed session.

MR. DODD: Mr. President, I have noticed that counsel for the Defendent Kaltenbrunner is here this morning. I understood there was to be some cross-examination of this defendant by counsel for Kaltenbrunner, and I thought we might save time if he preceded us and finished his cross-examination.

THE PRESIDENT: Yes.

DR. KURT KAUFFMANN (Counsel for Defendant Kaltenbrunner): Mr. President, I beg to apologize for having incurred the Tribunal's displeasure yesterday by not being here. But I had a very special reason, for circumstances are sometimes stronger than the will. If I may say this, I have been through a serious illness in the last few years and I did not feel well, although I firmly intended to be present at the session yesterday and had prepared everything. I respectfully beg to be excused.

THE PRESIDENT: Certainly, Dr. Kauffmann, the Tribunal accepts your explanation.

DR. KAUFFMANN: Thank you very much.

Witness, since when have you known the Defendant Kaltenbrunner?

SEYSS-INQUART: It was either 1935 or at the beginning of 1936 that I met Dr. Kaltenbrunner, in connection with the "Langot" relief work for National Socialist families who were in need. This was a form of support tolerated by the police.

DR. KAUFFMANN: What part did Kaltenbrunner play in Austria before the Anschluss in March of 1938? Did he belong to the radical elements or was he a moderate?

SEYSS-INQUART: At the time I was told that Kaltenbrunner was closely connected with the SS, but he was not the leader of the illegal SS. That was an engineer from Styria.

DR. KAUFFMANN: Was it the engineer named Leopold?

SEYSS-INQUART: No. I spoke several times to Zernatto about Kaltenbrunner. We called him the "policeman of the 11th of July" in the Party; that is to say, it was due to his influence that radical elements were dissuaded from excesses, such as those of July 1934.

DR. KAUFFMANN: And then Kaltenbrunner became an under state secretary in Austria?

SEYSS-INQUART: Yes.

DR. KAUFFMANN: Was the suggestion for his appointment as an under state secretary made by Austrian circles, or did it come from Himmler and Hitler or the Defendant Göring?

SEYSS-INQUART: As far as I know, it was only made by Austrians. I myself did not receive or accept any suggestions from the Reich regarding my own Ministry. The Party in Austria drew my attention to Kaltenbrunner because we wanted also to have a man in the police organization.

DR. KAUFFMANN: What were his actual tasks as an under state secretary?

SEYSS-INQUART: I think that as an under state secretary he did nothing at all. After Skubl retired, the President nominated him state secretary. In that capacity he had administrative and economic functions. He could not intervene in the actual executive. For instance, if I wished a man to be released from custody, then Kaltenbrunner would have had to get in touch with the commander of the Security Police; and if he said "no," then we would have had to go to Heydrich.

DR. KAUFFMANN: Now, it has been established that in 1943 Kaltenbrunner was appointed head of the Reich Security Main Office. He has testified here that he repeatedly tried not to accept that post. Can you say anything about that?

SEYSS-INQUART: I only know that I was at headquarters at the end of November or the beginning of December, 1942. On that occasion I also visited the field headquarters of Himmler; and one of the adjutants, I think it was Wolff, told me that the Reichsführer wanted to have Kaltenbrunner for the Reich Security Main Office and that Kaltenbrunner was reluctant to accept. He was now to be ordered to appear at field headquarters and remain there for 4 weeks, where he would be handled in such a way that he would take over the post.

DR. KAUFFMANN: Have you any proof that the actual reason for the appointment of Kaltenbrunner as Chief of the Reich Security Main Office was that he was to organize and direct a political and military intelligence service?

SEYSS-INQUART: I know certain things which go to prove that he did not have control of Security Police matters to the same extent as Heydrich, and I had definite facts regarding his intelligence work. In Heydrich's time the commander of my Security Police, when he wished to get a decision from Berlin, only talked about Heydrich. When Kaltenbrunner came into office, I do not remember his mentioning Kaltenbrunner; but he talked about the Reich Security Main Office, and sometimes mentioned Müller. I myself, as far as I can remember, only discussed Security Police matters with Kaltenbrunner on two occasions. One was about Dr. Schuschnigg's further fate, and Dr. Kaltenbrunner has already told you about that. The second time was when a relative of mine was to be taken to a concentration camp. I went to Kaltenbrunner because he was the only man I knew in the RSHA and I assumed he had some say there. I knew nothing about the line drawn between the various functions. On that occasion Kaltenbrunner telephoned to Müller in a manner such as a superior would never adopt when talking to a subordinate official. I have positive proof of his activities, because since 1944 I worked closely with Kaltenbrunner in that respect. I placed at his disposal foreign currency for his foreign intelligence service, that is, I obtained it for him from the departments concerned; everything was done in conjunction with the appropriate department in the Reich.

DR. KAUFFMANN: Just now you mentioned Müller. Do you mean Gestapo Chief Müller?

SEYSS-INQUART: Yes.

DR. KAUFFMANN: Did you have the impression that this man really held the reins as far as Security Police matters were concerned?

SEYSS-INQUART: I can only say that I know that in the course of that telephone conversation Kaltenbrunner said to Müller: "What will you decide in this case?"

DR. KAUFFMANN: Then you received military and political reports directly from Kaltenbrunner? Is that true?

SEYSS-INQUART: Yes, quite often. Those were the very secret reports of which only four copies were made, I believe.

DR. KAUFFMANN: Was this the case before Kaltenbrunner's nomination?

SEYSS-INQUART: No. Kaltenbrunner only introduced these reports at the end of 1943 or 1944, if I remember rightly.

DR. KAUFFMANN: What was the difference between those reports and the reports formerly prepared by Canaris?

SEYSS-INQUART: I know nothing about the Canaris reports, or very little. I know them from the former Reich Security Main Office.

DR. KAUFFMANN: Is it true that the reports made by Kaltenbrunner were noted for their particularly sharp and open criticism of all public measures?

SEYSS-INQUART: Yes, that too. Kaltenbrunner's reports were, above all, really objective; and not prepared reports serving certain ends.

DR. KAUFFMANN: How big were these reports?

SEYSS-INQUART: I think these reports generally ran into 40 to 60 pages, sometimes more; and they probably were issued every three or four weeks, as far as I know; but there must have been special reports as well.

DR. KAUFFMANN: Do you know whether these special reports were addressed to military offices or did they—the ones you have just mentioned—sum up the situation from the military point of view?

SEYSS-INQUART: The reports of which I am speaking were predominantly political and they were addressed directly to the Führer. In connection with these reports I remember they contained particularly severe criticism of the attitude of the Reich toward the Poles and toward the Catholic Church and that they were written on stationery with the Reich Security Main Office heading, which appeared to me then to be an impossible state of affairs.

DR. KAUFFMANN: You have just mentioned two criticisms. Can you perhaps tell me what was the gist of that criticism of the two phases of public life which you have just mentioned?

SEYSS-INQUART: With regard to the Poles, it demanded quite tersely that the Poles should once again be given an autonomous and independent existence as a state, or at least they should be promised it; and speaking of the Catholic Church, it demanded that all administrative and other measures should be rescinded and that the Catholic and Protestant Churches should in no way be molested.

DR. KAUFFMANN: Thank you very much. I have no further questions.

MR. DODD: You told the Tribunal yesterday that you became a Party member in 1938 and that your Party membership number was somewhere in the millions?

SEYSS-INQUART: Seven million. The membership came into effect from 13 March 1938. That is when I formally became a member of the Party.

MR. DODD: Well, when you say "formally," you are trying to distinguish then, as I understand it, and point out that you were in fact, although maybe not formally, a Party member for some time. You paid dues and you supported the Party, didn't you?

SEYSS-INQUART: The first two points are incorrect. I only paid subscriptions from the autumn of 1937—I beg your pardon, from the autumn of 1932 until 1933; inwardly I felt myself to be a National Socialist and a Party member, without however having made any formal declaration of loyalty.

MR. DODD: Were you a member of the Styrian Home Protective Organization (Steierischer Heimatschutz)?

SEYSS-INQUART: The Styrian Home Protective Organization, yes, from the autumn of 1932.

MR. DODD: And that organization was taken over, practically in its entirety, by the National Socialists at a time when you were a member, wasn't it?

SEYSS-INQUART: That had been the intention, but it was not carried out. There had been an agreement that the Styrian Home Protective Organization was to be taken into the Party, but Munich did not carry this out. Individual members of the Styrian Home Protective Organization had to join the Party individually.

MR. DODD: Do you know a man with the name of Dr. Andreas Morsey, M-o-r-s-e-y?

SEYSS-INQUART: Do you mean Andreas M-o-s-e-r? I think he was a solicitor, but I did not know him personally.

MR. DODD: Well, do you know that he was also a member of the Styrian Home Protective Organization?

SEYSS-INQUART: No.

MR. DODD: Do you remember having a conversation with him on 7 March 1938, just a few days before the Anschluss?

SEYSS-INQUART: I have no recollection of it.

MR. DODD: Well, let me see if I can help you. Do you remember telling him that you entered the Styrian Home Protective Organization in 1932 and that that was shortly before that organization was forbidden?

[The Interpreter translated: "... telling him that you were Chief of the Styrian Home Protective Organization ..."]

SEYSS-INQUART: That is quite out of the question. The Chief of the Styrian Home Protective Organization was Konstantin Kammerhofer. The whole of Austria knew that.

MR. DODD: You don't remember, then, having any conversation in which you said such as I have just stated to you? Is your statement that you never said it or that you don't remember the conversation? That is what I am trying to get at.

SEYSS-INQUART: I do remember that conversation; but I am stating that it is out of the question that I could have said that I was the Chief of the Styrian Home Protective Organization, because the whole of Austria knew that it was Konstantin Kammerhofer. At most I may have told him that I was very friendly with Kammerhofer, as indeed I was.

MR. DODD: Well, I want to show you then his statement, or his testimony rather, in the Case of the People *versus* Dr. Guido Schmidt. It is Document Number 3992. This testimony was given before the Supreme Penal Court in Vienna on 19 March 1946 before Judge Sucher.

We offer this as USA-882.

I ask you to look at the second page and you will find a sentence which begins:

> "On 7 March 1938 Seyss-Inquart personally informed me that he had entered this organization in 1932, that is, before it was made impossible; shortly before the Styrian Home Protective Organization was forbidden."

Then he goes on and makes reference to the man Kammerhofer, whom you just made reference to, and further down, in the next sentence, he says:

> "He (Seyss-Inquart) had entered this organization and had been admitted by the leader, Engineer Pichler (Franz), in Waitz and he had never left the organization."

Therefore your statement that you had not been a member of the NSDAP can be considered formally correct; but the statement that you had not worked illegally, he says, is not true.

SEYSS-INQUART: Dr. Moser could not possibly know whether I worked illegally. He is basing his statement on the assumption that the Home Protective Organization was actually amalgamated with the NSDAP, and that is incorrect. The witness Uiberreither can confirm this. I still hold entirely to my testimony.

MR. DODD: Do you know a man named Rainer?

SEYSS-INQUART: Very well, indeed. Dr. Friedrich Rainer.

MR. DODD: Yes. You have asked for him and he is coming here as a witness on your behalf, isn't he?

SEYSS-INQUART: Yes.

MR. DODD: But what do you say if he says that you became a member of the NSDAP when that Styrian Home Protective Organization went over?

SEYSS-INQUART: To that I wish to say for all...

MR. DODD: By the way, before you answer let me tell you something that will help you. This document is already in evidence, so I assume you may have seen it. It is Number 812-PS.

SEYSS-INQUART: Yes. It is a letter, a report from Dr. Rainer.

MR. DODD: So you know what he has said, I assume. You have seen the document, have you?

SEYSS-INQUART: Yes.

MR. DODD: You agree that he does say in this document that you were a member through your membership in the Styrian Home Protective Organization and that you joined the Party, so to speak, when that organization was taken over?

SEYSS-INQUART: Yes. I should like to say that until 1938 that was also my opinion, and I never doubted whether I was or was not. But in 1938 the Party stated clearly that it did not recognize that fusion and that the members of the Styrian Home Protective Organization were not members of the Party but that every one of them had to join the Party individually to be a Party member. Rainer will surely confirm that.

MR. DODD: Well, tell me this, whether or not you were formally a member, didn't you during all this time acknowledge the leadership of Klausner, who was the leader of the National Socialist Party in Austria; and didn't you follow his wishes and obey his directions?

SEYSS-INQUART: The leadership in Austria or in Germany?

MR. DODD: In Austria. I am talking about Klausner, who was in Austria.

SEYSS-INQUART: Yes. It was clear to me and I recognized the fact that Klausner was the leader of the Austrian National Socialists. I did not recognize Klausner as my political leader, a fact which is made clear by the same report which you, Mr. Prosecutor, have just mentioned. There Rainer says, "Seyss-Inquart recognized Klausner in political matters which were actually not binding."

MR. DODD: Well, he says precisely the opposite, if you will take a look at it.

SEYSS-INQUART: Oh, no.

MR. DODD: Well, now, wait a minute and look on Page 9, I think, of the German text, Line 7 from the bottom; in the English text it is Page 7:

"Relations between Seyss-Inquart and Klausner were as follows: Seyss acknowledged unconditionally the Party leadership with respect to the whole program and thereby also Klausner's leadership. As a Party member, he therefore subordinated himself specifically and literally to Klausner's leadership."

Do you find that?

SEYSS-INQUART: I have only a draft before me, but it goes on to say:

"Over and above that, he declared himself, on the basis of the agreement at Berchtesgaden and particularly on the basis of the declarations made to him by the Führer on the occasion of his staff visit to Berlin, as being a trustee of the illegal NSDAP in Austria directly responsible to the Führer within his political and state functions."

Then there must be another passage where I say that in regard to political matters I would not subordinate myself to Klausner.

MR. DODD: Well, anyway, to move along, it is a fact, isn't it, that very early in this period you acknowledged your unqualified allegiance to Hitler, and long before the Anschluss, too? You acknowledged your political allegiance, didn't you?

SEYSS-INQUART: One can almost say that. As far as "unqualified allegiance" was concerned, that was not clear to me at the time, because it was my opinion that Hitler, too, wanted a revolutionary course.

MR. DODD: Well, all right. Didn't you have something to do with the Dollfuss matter other than what you have told the Tribunal? You know, of course, that Rainer says that you did, in this same Document 812-PS.

SEYSS-INQUART: Yes.

MR. DODD: And I think it is important that you make some answer to it. You haven't done it on your direct testimony, and the document is in evidence, and in it he says that you supported . . .

SEYSS-INQUART: The reason, Mr. Prosecutor, why I did not do it was because Rainer is coming here as a witness. Rainer will have to tell us here under oath on which facts he bases his statements. I can only say "no."

MR. DODD: Well, I know. I understand that, and that is another reason for asking you now. You see, you will be off the witness stand when he is on it; and I would like to know what you say now to what Rainer has said in this document, which is in evidence, to the effect that you were involved in the Dollfuss plot on 25 July 1934.

SEYSS-INQUART: No, that is quite wrong.

MR. DODD: All right. In connection with this there is one other matter I think we should clear up now if we can. You didn't mean to convey to the Tribunal, did you, that the ceremonies—if I may use that expression—commemorating the assassination of Dollfuss had nothing to do with Dollfuss at the time that they were held?

SEYSS-INQUART: I certainly do wish to create that impression, because that ceremony was for the seven National Socialists who had been hanged at that time. On that occasion, as far as I remember, there was no thought of Dollfuss' death; but only of the fact that several men of the Standarte, I think Number 107 or 108, had made an attempt to do away with a system which in National Socialist opinion was hostile to the Reich, and as a result seven were hanged. The fact that Dollfuss was shot on that same occasion was not mentioned during the ceremony.

MR. DODD: Well, I don't say that it was, but the ceremony certainly commemorated the attack on Dollfuss; and I think it is quibbling, is it not, to say that it had no reference to it?

SEYSS-INQUART: No, if Dollfuss had not been shot, then the ceremony would have been carried out just the same.

MR. DODD: Are you sure of that; you think that all would have been hanged if he hadn't been shot?

SEYSS-INQUART: At any rate, I know they were hanged.

MR. DODD: Well, you were appointed a State Councillor in 1937—and of course again we are going to talk a good deal about this in this short time, about Rainer and this document. You know Rainer also says that you were appointed through the influence of Keppler and other Nazis in Austria and Reich officials. Is that so? Did they influence your appointment in 1937? Rainer is wrong about that as well, is he?

SEYSS-INQUART: Not at all—Keppler had no influence at all on the nomination as State Councillor.

MR. DODD: And Rainer, in your judgment, is in error when he says that they did have? You disagree with his statement, as I understand it. I want to make that clear.

SEYSS-INQUART: That is absolutely incorrect.

MR. DODD: All right.

SEYSS-INQUART: I was appointed State Councillor because Zernatto had discussed the matter with a friend of mine and then suggested it to Schuschnigg. A proposal from Keppler would probably have been a reason for Schuschnigg's not nominating me.

MR. DODD: It was just a casual thing, and Schuschnigg appointed you because somebody spoke to him; and the Nazis with whom you were familiar in those days had nothing to do with it, had they?

SEYSS-INQUART: That I would not say. I discussed with Rainer the possibility of an appointment as State Councillor, because our mutual acquaintance had previously discussed the question with Zernatto. I then discussed it with Rainer, but he exercised no influence with regard to the appointment.

MR. DODD: You have seen the document known as the Hossbach Minutes, USA-25, 386-PS, introduced before this Tribunal many months ago. Do you recall then that Hitler, in the course of this discourse, as is reported by Hossbach, stated some of the plans that he had for Austria as well as for Czechoslovakia? Do you remember that? It is in the document, I can assure you.

SEYSS-INQUART: Yes.

MR. DODD: That was the 11th of November 1937—no, I'm sorry—it was on the 5th of November 1937. When did you first hear about that meeting? For the first time in your life, when did you hear about it?

SEYSS-INQUART: Here, in this room.

MR. DODD: Now, do you remember the letter you wrote on 11 November to Dr. Jury?

SEYSS-INQUART: Yes.

MR. DODD: Do you remember it very well, or would you like to see a copy of it? I will show it to you. We have a copy here. You haven't seen this; this is a new document.

SEYSS-INQUART: I have also got a copy.

MR. DODD: It is 3396-PS.

SEYSS-INQUART: That is right.

MR. DODD: What did you mean when you wrote to Jury on 11 November 1937, when you wrote:

> "... I personally believe that there will be no visible results until early next year. In the meantime, I have received an authentic report from Linz..."

and you go on to talk about a newspaper article.

What I wanted to know was, what did you mean by the events in the early part of 1938?

SEYSS-INQUART: In the situation prevailing in Austria at that time, it was clear that the internal political position would not remain static. The optimistic National Socialists thought that during the coming weeks either Schuschnigg would retire or

something else would happen. I viewed the situation more correctly, and it was my opinion that the new internal political development in Austria would not take place until the spring, that is to say, developments in the direction of further permissible activities on the part of the National Socialists. The newspaper article is something quite different.

MR. DODD: I am really not concerned about that unless you feel that it is important to your answer. I wanted to go back a little bit. You see, you open your letter by referring to a conversation with Mr. Keppler. Now, he is the man who was Hitler's emissary on 11 and 12 March when Austria was handed over to the Nazis, isn't he?

SEYSS-INQUART: Yes.

MR. DODD: And you say:

"The conversations with Mr. Keppler today were carried on in an atmosphere of complete calm, and they were also extremely revealing. I do not believe that things are so ripe for discussion as they appear to be from the national side and in the Reich."

Then you go on:

"I should be pleasantly surprised if an initial solution were to be found before the end of this year."

What you were really talking about was the handing over of Austria to the Nazis. Isn't that what you had in mind when you wrote this letter? Isn't that the "initial solution"?

SEYSS-INQUART: No. First of all, it does not say that my conversations with Keppler were secret, but only that they were informative.

MR. DODD: It says "in complete calm." I don't know whether that is secret. I don't know what that means.

SEYSS-INQUART: It means that we talked very realistically. The Reich was very insistent. We might have discussed the possibility of applying some diplomatic pressure, but the aim was to promote the activities of the National Socialists in Austria, with the intention, however, of achieving the ultimate goal of the Anschluss.

The contents of the Hossbach Document were not mentioned at all, and I am convinced that Keppler had no knowledge of it. Keppler did not have a very strong position with the Führer at all.

MR. DODD: Yes. You recall you wrote Keppler a letter a little later, in January of 1938. Do you remember that?

SEYSS-INQUART: Yes.

MR. DODD: That you wanted to give up your mandate or your trust or your responsibility or whatever the proper expression is.

SEYSS-INQUART: Yes.

MR. DODD: What kind of mandate did you have from Keppler or from Göring, to which Keppler refers in his letter?

SEYSS-INQUART: No, the mandate was the Austrian State Councillorship. I wanted to give it up, as well as the task of investigating the understanding necessary for obtaining the co-operation of the National Opposition. I did not receive any mandate at all from Keppler, and I could hardly have accepted one.

MR. DODD: You know the document that is in evidence, 3397-PS. It is USA-702. And Keppler says that he informed Göring of the situation and that Göring told him to keep you at your task, or that is the sense of it.

Now, my question is, why should Göring be interested in this mandate if it only had to do with your position as State Councillor in Austria? He wasn't an official of the Austrian Government, and you were.

SEYSS-INQUART: In that case may I have the document?

MR. DODD: Yes, indeed. You will also find reference in here to Dr. Jury, the very man concerning whom we talked a few minutes back and to whom you wrote that letter on 11 November.

SEYSS-INQUART: Which passage do you mean, Mr. Prosecutor?

MR. DODD: Well, my question about it is this, I am wondering why Keppler would go to Göring with your desire to withdraw from whatever position it was that you occupied with respect to the Nazis or, as you put it, with respect to your place as State Councillor; and it is even more of a problem to us with respect to your explanation. What did Göring have to do with that?

SEYSS-INQUART: Yesterday I stated that Dr. Schuschnigg had given me the task of investigating conditions for co-operating with the National Opposition. I always told Schuschnigg that the Austrian National Socialists would not accept any offers without Hitler's agreement. With the knowledge of Zernatto and Dr. Schuschnigg I visited Göring and Hess. Both these gentlemen knew that I not only had contact with the Austrian National Socialists, but also with the gentlemen in the Reich, through Keppler. This was also known to these gentlemen in the Reich, and they were interested. If now I were suddenly to say, "I'm through, I'm not going on with it," then I considered it my duty to inform these gentlemen in the Reich that they could no longer count on my co-operation. That, I believe, is a matter of course. One could not do otherwise.

MR. DODD: Yes, and the letter that you wrote to Jury on 11 November was after your meeting with Hess and Göring, too, wasn't it? Of course it was; you saw Hess and Göring in July 1937.

SEYSS-INQUART: Yes, the Reich Marshal testified to that already.

MR. DODD: Well, all right. Now I will ask you a little bit about this meeting with Von Papen in Garmisch. That just happened casually and was not planned, as I understood you. You talked about the possibility of the place of the Minister of Security being filled by a member of the Nazi Party. What I want to know is, did you also talk about the possible trip of Schuschnigg to Berchtesgaden, which didn't come so long after this meeting, did it? Was it mentioned?

SEYSS-INQUART: No, we did not talk about the technical means, whether a meeting between Dr. Schuschnigg and Hitler would take place and so forth or whether this should be accomplished through diplomatic channels—that was not discussed by us.

MR. DODD: Wasn't it discussed at all, that's all I want to know? Wasn't there any discussion about it?

SEYSS-INQUART: A meeting between these two state leaders was not discussed, but only the material content of our plan.

MR. DODD: When, for the first time, did you learn about the proposed meeting between Schuschnigg and Hitler, and from whom?

SEYSS-INQUART: I think 2 days—it must have been on 10 February that I received information from Rainer or Globocznik telling me that this meeting was expected to take place. At about the same time Zernatto asked me to come to Vienna, but he still did not tell me what it was about.

MR. DODD: Actually, isn't it a fact that you prepared notes or, if you prefer to call it, a memorandum for Hitler which he used as the basis of his discussions with Schuschnigg at Berchtesgaden?

SEYSS-INQUART: I made a written proposal for clearing up the matter; and I gave it to Zernatto, on the one hand, and to Dr. Rainer on the other. It is perfectly possible that Rainer passed it on to the Reich. I would also have seen nothing wrong with that.

MR. DODD: You know very well, don't you, that Mühlmann was sent up there that night by you and your associates; and he got to Berchtesgaden ahead of Schuschnigg and Von Papen with that memorandum, isn't that a fact?

SEYSS-INQUART: Dr. Mühlmann is . . .

MR. DODD: Yes, the same gentlemen you referred to as having been in Holland with you, and in Berchtesgaden.

SEYSS-INQUART: Dr. Mühlmann went to Berchtesgaden at that time and was informed about my last conversation with Dr. Schuschnigg. He will probably have noted that down.

MR. DODD: Don't you know that he did, and Schuschnigg didn't know—and that's the important thing—what Mühlmann was doing up there ahead of him with the notes or the conditions that you had presented to Schuschnigg the night before. Schuschnigg didn't know that, did he, when he went there like a lamb to Berchtesgaden?

SEYSS-INQUART: I am convinced Schuschnigg did not know that Mühlmann was in Berchtesgaden and had quite probably informed Keppler who in turn informed the Führer. Schuschnigg certainly did not know that. When I talked to Dr. Schuschnigg, I did not know Mühlmann would go along.

MR. DODD: When did you find out that Mühlmann would go?

SEYSS-INQUART: After the discussion with Dr. Schuschnigg I returned to my office, and there I found Dr. Rainer and perhaps someone else; and I told Dr. Rainer about our conversation. Possibly Mühlmann was present, and then we—I say we, because I do not want to except myself from this—we decided to inform Keppler of the nature of our conversation. In the meantime, Dr. Schuschnigg had probably gone to the station. I really did not see any reason for informing him directly at this time.

MR. DODD: And so you did want to inform Hitler then—did I hear you correctly—of the nature of your conversation with your Chancellor Schuschnigg that night?

SEYSS-INQUART: At that time I had no opportunity or cause to inform Dr. Schuschnigg of the fact that Mühlmann was going there.

MR. DODD: I know you may not have seen any cause, but what I am trying to make clear is that you did want to let Hitler know that you had had this conversation with Schuschnigg and what you had said to Schuschnigg.

SEYSS-INQUART: Yes.

MR. DODD: Why in the world were you notifying the head of another State about your conversation with the head of your own State, to which you owed allegiance?

SEYSS-INQUART: I do not see that this is a breach of faith. It was giving information to heads of two parties to an agreement, for whom I was negotiating.

MR. DODD: Would you say that you could negotiate between your country and Germany at that time without notifying your own Chancellor? Schuschnigg didn't know that you'd sent that note on to Hitler, did he? Now be frank about it.

SEYSS-INQUART: Yes, it is certain that Dr. Schuschnigg did not know this. But Dr. Schuschnigg did know very well that I was in

constant contact with the Reich through Keppler and that the outcome of our conversations was always passed on to the Reich, for the Reich also had to express an opinion. I always said there can be no internal political understanding unless Hitler agrees with it. That is a fact, and nothing can be done about it; whether it is morally right or not, that was the position. Otherwise there should have been no attempt at carrying through a policy of understanding.

MR. DODD: That was not the only time that you did not play completely fairly with Schuschnigg, was it? Do you remember when you gave him your word of honor that you would not make known his plans to announce the plebiscite? Remember when he first told you and asked you on your word to keep quiet and you told him that you would?

SEYSS-INQUART: Yes.

MR. DODD: You went right from that meeting to the Regina Hotel, and do you remember what your associates asked you and what answers you made?

SEYSS-INQUART: Mr. Prosecutor, I cannot help you; I think you are confusing two events. At that time I did not go to the Regina Hotel. It was on the evening of 10 March, and it was an entirely different matter. First of all, it was wrong for Dr. Schuschnigg to ask me for my word of honor, for he himself employed me as liaison man in connection with the agreement of 12 February. Had I known in advance what he wanted of me, I would have turned it down, for on the basis of the agreement of 12 February it was my duty immediately to inform the Reich of this. But I kept my word. On the same evening Jury came to me. He had heard about this from other sources, and I did not mention a single word to Jury that I knew about it. During the forenoon of the following day, Rainer came. I did not take part in these negotiations until it was nearly midday. Rainer says that it was in the forenoon, but it was really towards noon.

MR. DODD: Well, I will accept the correction as to the time, but I don't think it is very important. The point is . . .

SEYSS-INQUART: It is very important in my opinion.

MR. DODD: Very well, if you think it is, we will settle for that. I want you to read what Rainer says about your keeping of your word.

> "Seyss-Inquart explained that he had known about this for only a few hours but that he could not talk about it because he had given his word to keep silent on this subject. But during the conversation he made us understand that the illegal information we received was based on truth and that in view

of the new situation, he had been co-operating with the regional leaders (Landesleiter) from the very first moment."

Now, certainly, that is not keeping silent or keeping your word as both you and Schuschnigg understood it, is it?

SEYSS-INQUART: In this case, it was absolutely impossible to do otherwise. It was getting on towards noon on the day on which my pledge of silence expired. The gentlemen sat in front of me and told me all the details. I could not now suddenly say that this was all a bunch of lies, for I did not promise Schuschnigg to lie either. Instead, I kept silent about it, and from that the others deduced that that was probably so.

MR. DODD: You knew when to keep silent and you knew when to make observations in order to give information to your associates what Schuschnigg had asked you to keep confidential.

Now, when did you learn the true nature of what happened at Berchtesgaden, about the threats and about the terrible way that Schuschnigg was treated up there?

SEYSS-INQUART: That I heard from Zernatto. I think that was already on 13 February. Then I heard it from Foreign Minister Schmidt, and Dr. Schuschnigg told me more or less the same thing. It was therefore probably on 13 or 14 February.

MR. DODD: Well then, you had a rather complete picture of the way that Schuschnigg was threatened; and I suppose you knew about Keitel being called in to frighten him, and all the threats of marching in by sundown. You had a rather full knowledge of what happened up there, didn't you?

SEYSS-INQUART: I do not remember the story of Keitel, but Schuschnigg told me that the generals were up there, and obviously military pressure was to be exercised.

MR. DODD: And you knew, too, that Hitler had demanded your inclusion in the Government as Minister of Security. Schuschnigg told you that, didn't he?

SEYSS-INQUART: Yes, I believe that Hitler had demanded that the National Socialists should be given the Ministry of the Interior and Security. Schuschnigg agreed and to Hitler's question as to whom he proposed Schuschnigg was supposed to have mentioned my name. But that is nothing but rumors and stories and I do not know any details. At any rate, that happened in the course of these very dramatic conversations.

MR. DODD: I think this is rather important, because you have a witness coming here who was there at that meeting, Dr. Schmidt. Are you now telling this Tribunal that it was Schuschnigg who suggested your name, and not Hitler who demanded that you be appointed?

SEYSS-INQUART: I do not want to tell the Tribunal any stories; I merely want to make my contribution to clear up the background of events as far as the Charter allows. I say explicitly, I have heard that it was so. If Schmidt was there and says that it was otherwise, then of course I will believe him.

MR. DODD: Can you tell us who told you that, because we have the sworn testimony of President Miklas, who says Hitler demanded it. We know that Schuschnigg says Hitler demanded it and Dr. Guido Schmidt is going to tell you that Hitler demanded it. Now, who told you that it was Schuschnigg?

SEYSS-INQUART: Dr. Mühlmann told me that. But I wish to say that the facts are as you state them, Mr. Prosecutor, for this is just a tactical detail. If the Führer forced Schuschnigg to cede the Ministry of the Interior, and then there was an exchange of words and he stated my name first, then I do not want to draw the slightest conclusion from that for my defense.

MR. DODD: Well, I think that is very brave. The fact of the matter is that it was all arranged; you knew it, and so did Hitler, that you were to be included in their government and that anything that went on there was unimportant as to who actually mentioned your name first.

SEYSS-INQUART: That is correct. But I did not know for sure that on that day Hitler would demand the Ministry of the Interior and would nominate me, because Herr Von Papen did not inform me about the outcome of his conversation with Hitler. I only supposed that things would take that course. I was by no means such a *persona grata* in Berlin that Berlin would certainly decide on me.

MR. DODD: Now, not many days after that so-called agreement, which was reached in Berchtesgaden, Hitler broke it, did he not?

SEYSS-INQUART: On 17 February, yes.

MR. DODD: He broke it before the 17th, didn't he? Do you remember when he appointed Klausner as the head of the Party, despite the fact that he had agreed with Schuschnigg that no such thing would be done and that there would be no such political organization? You knew about that, didn't you, when it was done?

SEYSS-INQUART: I beg your pardon, but I think perhaps I misunderstood your first question . . .

MR. DODD: Maybe it is a little involved. The point is that a few days after this meeting in Berchtesgaden, Hitler appointed Klausner as the head of the illegal Nazi Party in Austria; isn't that so?

SEYSS-INQUART: I believe that only happened after 17 February, because I myself suggested to Hitler that he ought to agree

to Klausner's being the leader of the Nazis in Austria. It was perfectly clear to me that no National Socialist in Austria would follow anybody unless Hitler was agreeable.

MR. DODD: Would you accept the recorded history of Guido Zernatto, whose book you have offered to the Tribunal? Would you accept his record of when it happened?

SEYSS-INQUART: Yes, I would.

MR. DODD: He says it was a few days after the Berchtesgaden meeting. I suppose that could be the 17th, but it is not likely. Wasn't it before you went to Berlin?

SEYSS-INQUART: Who said that—I?

MR. DODD: Zernatto.

SEYSS-INQUART: No, the first time in my life that I saw Hitler was on 17 February; and at that time I think Klausner had not yet been nominated, because I myself mentioned to Hitler that he ought to agree to Klausner's becoming the leader of the Austrian National Socialists.

MR. DODD: Now I see that you recognize that. That is a very crucial matter in your whole dealing between Austria and Germany, because if, as Zernatto indicates, this agreement was broken a few days after the meeting, then when you went to Berlin and talked about a Trojan Horse you knew that Hitler had already started his illegal activity in Austria, didn't you, if, indeed, it was before you went there.

SEYSS-INQUART: I would like to say that the illegal activities—not necessarily Hitler's but several people's—never ceased, and it was my intention to shape this illegal activity in such a way that we could control it from the Austrian side. I also told Schuschnigg repeatedly that the Austrian Nazis would do nothing without Hitler.

MR. DODD: Well, that is not the point. I am not going to labor it further. I am going to ask you one other question about your meeting with Hitler. You surely knew by the 17th how badly Schuschnigg and Guido Schmidt had been treated at Berchtesgaden. Did you say anything to Hitler about that in the course of your 2½ hours' conversation with him?

SEYSS-INQUART: No, for I am not responsible for the policy of the Fatherland Front against the National Socialists in 1934. It was only the reaction to the suppression of the National Socialists in Austria.

MR. DODD: Well, all right. Now we come down to 8 March. That is the day that Schuschnigg told you about the plebiscite that he intended to hold in a few days.

SEYSS-INQUART: Yes.

MR. DODD: It was on 9 March that you wrote the letter to Schuschnigg and sent the copy of it to Hitler, was it not?

SEYSS-INQUART: Yes.

MR. DODD: Did you tell Schuschnigg that you were sending a copy by courier to Hitler?

SEYSS-INQUART: I do not know; but I would have had no qualms about it, because after 12 February 1938, I had to inform the Reich.

MR. DODD: You certainly also had to inform Schuschnigg, didn't you, as his State Councillor, that you were sending a copy of this very important letter to Hitler? You did not tell Schuschnigg anything about that, isn't that true?

SEYSS-INQUART: It is possible, but I believe that I may have told Zernatto. I certainly told Zernatto that I was informing the Reich. Of that there is no doubt.

MR. DODD: We will see about that. The next night you had a meeting with Schuschnigg and with Schmidt and with Skubl, I guess in the Chancellery office. You never mentioned the fact to any one of them there, did you, that you had already communicated with Hitler by special courier; do you remember that meeting?

SEYSS-INQUART: Actually I have no clear idea of it. I only remember the meeting on the evening of 10 March, but I think it is quite possible that it . . .

MR. DODD: That is the night that you did go to the Regina Hotel and saw Klausner; immediately after that meeting you went right down to the street and saw your associates. Did you tell them what Schuschnigg had said to you and what you had said to Schuschnigg in the conversation a little earlier?

SEYSS-INQUART: Yes, but I found a most amazing lack of interest.

MR. DODD: But your courier was back from Berlin, wasn't he; Globocznik had returned from Berlin?

SEYSS-INQUART: Yes. Globocznik came back and informed us that Berlin refused to agree to this plebiscite, and that the following day I would receive a letter indicating Hitler's attitude.

MR. DODD: Now, during that same meeting at the Regina Hotel you heard Rainer give instructions for the mobilization of the Party in Austria to be ready to put on demonstrations or to seize power the next day. You were there when he laid out his plans. Do you remember that?

SEYSS-INQUART: I think that is a considerable exaggeration on Rainer's part. I only remember that Klausner said, "Well, then everybody is to keep in touch with him tomorrow." That demonstrations might of course take place was so obvious that everybody was aware of it. If the matters were not cleared up now, there would be serious demonstrations. But the Government also knew that.

MR. DODD: I think we can get over it pretty quickly if you will agree with me that these demonstrations were not spontaneous at all, as I thought you were trying to convey to the Tribunal, but they were well planned out by your associates.

SEYSS-INQUART: That the actions were not spontaneous? Certainly they were not spontaneous.

MR. DODD: They were not?

SEYSS-INQUART: The entire situation after 8 March became more and more heated.

MR. DODD: All right. Now, when Glaise-Horstenau came back from Berlin on the next morning, 11 March, he told you about the planned military events or the talk of military events in Berlin, didn't he?

SEYSS-INQUART: Yes, and we told Dr. Schuschnigg the same thing.

MR. DODD: You went to see Schuschnigg and you wrote him another letter that same morning.

SEYSS-INQUART: Before that, during a conversation which lasted for nearly 2 hours, I reported all details. The letter was merely a confirmation.

MR. DODD: Well, the letter was an ultimatum to Schuschnigg, wasn't it; and it was written by you at the direction of your political superior, Klausner?

SEYSS-INQUART: No. Rainer has asserted that—that again is one of his assertions. If you can call it an ultimatum, then I had already given that orally, because when I left Dr. Schuschnigg I asked him to reply to me by 2 o'clock in the afternoon; and I said that in the event of his refusal Glaise-Horstenau and I would have to resign, but at that time I had not even spoken to Klausner yet.

MR. DODD: Well, as I take it, everything that Rainer has said in this report, in this Document 812-PS, you say is untrue. He also says there . . .

SEYSS-INQUART: Not untrue, but slightly exaggerated.

MR. DODD: All right. I just want to get your views, I repeat, because you will not be available after he comes on the stand. You

know he also says that he talked with you about the seizure of power in the event that Schuschnigg refused your ultimatum. Do you say that is so or not so?

SEYSS-INQUART: I do not remember. I do not think so.

MR. DODD: What do you say about his statement that you discussed three definite possible steps for the taking over of Austria and handing it over to Germany? Is that true or not?

SEYSS-INQUART: I believe that that is a construction placed on it afterwards by Rainer.

MR. DODD: Now, I have to ask you about these things because we must get your view, I think.

SEYSS-INQUART: Please do.

MR. DODD: Rainer also says that the telegram, the now well-known telegram to Hitler saying that there was a bad situation in Austria—that that telegram was actually brought back from Berlin by Glaise-Horstenau. He says that in the same document. What do you say to that?

SEYSS-INQUART: It is not quite correct. Hitler's letter . . .

MR. DODD: Well, how is it correct, if it isn't quite correct? You indicate that there is some truth in it.

SEYSS-INQUART: I received Hitler's letter through a courier, not through Glaise-Horstenau. And in that letter there was a draft for a telegram.

MR. DODD: And that is the same telegram that Göring referred to when he talked to you on the telephone, and the same one that Keppler referred to when he talked to Dietrich on the telephone, isn't it?

SEYSS-INQUART: No, that telegram was at least twice as long and I very decidedly rejected this telegram.

MR. DODD: Well, finally, let me ask you this about that particular day. This radio speech that you made was really made at the direction of Göring, was it not? He told you . . .

SEYSS-INQUART: No.

MR. DODD: . . . to make a statement, didn't he?

SEYSS-INQUART: There is no question of it. That would have been of no interest to me.

MR. DODD: You had better look at the transcript of his telephone conversation with you. It was 1957 hours that night, when he told you to make a statement to the people, and about 3 minutes later you went on the radio and made it. What do you mean that Göring did not tell you to do it?

SEYSS-INQUART: Yes, but Göring asked me to do something quite different. He asked me to declare myself head of a provisional government and to take over power. At least that is what I believe. I introduced myself as Minister of Interior and Security and I demanded that the people should keep calm and should not put up any resistance to the German troops who were marching in, which was exactly what Schuschnigg had said half an hour before me.

MR. DODD: Well, anyway it only took you 2 or 3 minutes to get to the microphone after you talked to Göring?

SEYSS-INQUART: I talked to Field Marshal Göring such a lot—I do not want to involve him or myself in all that we did on the basis of the telephone calls. I believe that I did hardly any of these things.

MR. DODD: You are not indicating, are you, that Göring was not interested in your selling out Austria to Germany? He certainly had a great interest in what happened there that day, had he not?

SEYSS-INQUART: Yes, but I do not think the expression "selling out" is very suitable. Obviously Göring was extremely interested in bringing this thing to a final conclusion, perhaps in some drastic way.

MR. DODD: You told the Tribunal yesterday that there were about 40 SS men in the building and that you thought they were there because Miklas and Schuschnigg did nothing to remove them, that they could very easily have removed them. Now, the truth of the matter is that you were the Minister for Security; and it was your responsibility to remove them, was it not?

SEYSS-INQUART: No, I was not the master of the Federal Chancellery. Apart from that, there was Dr. Skubl; and one word from Dr. Miklas or Dr. Schuschnigg would have sufficed to bring in 300 men from the Guard Battalion to restore order. One could not expect me, at that moment, to proceed against National Socialists.

MR. DODD: Well, if one word from them would have sufficed, just the wave of your finger would have sufficed, would it not, to get them out of there? They were your National Socialist SS men; beside the fact that you were the head of the police.

SEYSS-INQUART: Whether they would have obeyed me or not I do not know. I did not have command over the Guard Battalion because it was part of the Armed Forces. Undoubtedly I could have exercised my influence and it might have been successful, but the fact that these 40 men were there seemed to me to be quite insignificant.

MR. DODD: The place was surrounded with them, was it not? They were not only in the building, but they were outside of it and on the roofs of neighboring buildings. You remember all that?

SEYSS-INQUART: There were a few thousand National Socialists in front of the Federal Chancellery at the time.

MR. DODD: Well, we had better refer to your friend Rainer, who is coming here on your behalf, and see what he says about it.

Have you seen the article—yes, I guess it is fair to call it an article—that he wrote about that historical night? Are you familiar with that?

SEYSS-INQUART: Oh yes; one can really call it more than an article.

MR. DODD: Yes. He called it "The Hours of Historical Decision."

This is 4004-PS, Mr. President, USA-883.

[Turning to the defendant.] You will agree, then, that it is quite a different picture that Rainer gives from what you have given this Tribunal, is it not? If you know the article, and you say you do. He says, you know, that Kaltenbrunner commanded 700 SS men there that night and that Lukesch had 6,000 SA men within half an hour, and they received the order to advance and occupy the Federal Chancellery and to hold the Ring and the building until the National Socialist Government was proclaimed; and that 40 SS men under Kaltenbrunner's adjutant, Rinner, received the order to force their way into and occupy the Federal Chancellery, and so on. And you ordered—he says that you are the man who ordered—that Rinner be let in. That is very important, and I would like to know what you say about that. Rinner was in command of the 40 SS men that you say somebody else should have removed. You will find that he says:

> "It was getting on towards 10 o'clock when the commanding officer of the guards reported to the Minister of Security, Dr. Seyss, who happened to be in our room, that a man accompanied by 40 others was demanding to be let in through the gate on the strength of higher orders. I quickly informed Dr. Seyss that these were Rinner and his 40 men who had been detailed to occupy the Federal Chancellery. Dr. Seyss ordered that Rinner be brought upstairs. I shall never forget this moment. Escorted by a lanky guardsman, Felix Rinner, the famous Austrian champion runner . . ." and so on.

He was the first National Socialist Sturmführer who entered the headquarters that night; and you are the man, actually, who let him in.

SEYSS-INQUART: That is a victory article, written in the flush of victory. All I can say is that I saw these National Socialists, in black trousers and white shirts, in the corridors; and I asked, "What is going on?" But this dramatic account about my opening the gate—well, let's wait and see whether Rainer confirms that.

MR. DODD: Well, I understand that; we look forward to it as well as you do.

You will notice that a little further on he says that you, on your own responsibility, gave the order to open the gate and let these men in. But you say that isn't so. That is all I want to know.

SEYSS-INQUART: No, that is quite new to me.

MR. DODD: Well, I think we can pass on. There isn't any truth at all, I expect, is there, in this whole article by Rainer? Or is there something in it that you might admit is true? You know he is going to be your witness.

SEYSS-INQUART: I am also extremely interested in hearing what he has to say here. This is a somewhat poetical account of these events. The basis is certainly correct, but there is a lot of victorious exultation attached to it.

MR. DODD: I think I should also tell you, by way of a preliminary to a question, that Guido Schmidt, in testimony which we have here and which I will be glad to present to you, says that the place was surrounded by these SS men and that they were in there with your knowledge. What do you say to that? He is also going to be your witness.

SEYSS-INQUART: I have said that a few thousand National Socialists had collected around the Federal Chancellery. Whether they were SS or SA men, that I do not know. There were quite a lot of women among them. This so-called mobilization order of the Party was unknown to me; but I told Dr. Schuschnigg that very morning that if we could not agree, then he would have to expect large-scale demonstrations by the Party.

MR. DODD: Now, one other matter. Did you tell the Tribunal—did I understand you correctly when I heard you testify that Miklas resigned without any request from you? That is, President Miklas, who was then the Bundespräsident of Austria. Is it your testimony that he resigned without any request from you?

SEYSS-INQUART: It was my request that he should sign the Anschluss Law, and he said he would not do that. According to the Constitution his powers would then pass to me. He did not want to stand in the way of developments. I do not think I told him to resign; I merely demanded that he sign the law.

MR. DODD: Well, he has testified before a court in Vienna, in which testimony he says that you demanded it. Now do you remember or have you forgotten or do you say that is untrue?

SEYSS-INQUART: No; I consider that is out of the question because I clearly remember that he said:

"I cannot sign the law, but I shall not stand in the way of developments. If you confirm to me that it is necessary that the Anschluss should be carried out, then I shall resign and you will have my powers."

If he understood that as a demand to resign, then I do not want to contradict him. I do not want to make his position any more difficult, because I confess that I was in favor of the Anschluss.

MR. DODD: Well, I want to offer this in evidence, and you may look at it if you like. In any event, it is his testimony before a court in Vienna on 30 January 1946. It is Document 3697-PS, and it becomes USA-884. If you would like to see it, you may. He says just about what I put to you, that you talked around it a good deal, said it was very distasteful for you, but nevertheless you were bound to comply with the order from Germany and therefore he had to resign. That is on Page 17 of the English text of the testimony of President Miklas.

Did you once write a letter to Himmler, or did you twice write letters to Himmler, about Bürckel? One of them is in evidence, and I want to ask you if you remember the other one. Do you remember the letter that you wrote to Himmler in which you said that it was not true that you were interfering with the deportation of the Jews; that you had only insisted that they be turned over to Kaltenbrunner's men, the SD?

SEYSS-INQUART: I know it. It was submitted here. I know I have seen it in this Court.

MR. DODD: I think you have seen it, but it has not been submitted in evidence; however, I wish to do so.

SEYSS-INQUART: Yes, but the letter is certainly correct.

MR. DODD: It is Number 3398-PS, which is USA-885.

In the letter you said that you gave instructions that the deportation of the Jews should be carried out only in agreement with the SD and through the SD and that you could not permit wild actions.

SEYSS-INQUART: Right. Do you want me to state my views with regard to it, Mr. Prosecutor?

MR. DODD: Well, I want to ask you this. Then you knew all about it, and I understood you to say that you did anyway, on your direct examination. You knew about the deportation of the Jews, and you were doing your part to see that the SD carried it out. That is the only point I am trying to make with you, and I assume that you agree.

SEYSS-INQUART: Yes, of course I knew that a few trains had been loaded with Jews in Vienna. They were then taken to Poland and unloaded. No preparations whatsoever had been made, and the

Jews were in serious difficulties. I opposed this state of affairs; and when Bürckel complained, I told Himmler, "If such actions take place, then they ought to be carried out by the SD," because I was under the impression that then better preparations would be made. When I say that today it sounds very tragic and bitter, but I thought that at least emergency quarters and so on would be provided somewhere. Apart from that I knew from 9 November 1938 how these things were carried out. The Party forged ahead, and then the State had to take over these matters and carry them out.

MR. DODD: Yes. At any event, you knew that Kaltenbrunner at that time was deporting, or had charge of the transporting of the Jews out of Austria.

SEYSS-INQUART: I do not recall Kaltenbrunner in this connection. I think that was done by the Party alone. I believe Kaltenbrunner had no part in it.

MR. DODD: Didn't you say the SD, and wasn't that under Kaltenbrunner in Austria, at that time?

SEYSS-INQUART: I said that it ought to do it, but these transports were not run by Kaltenbrunner, Globocznik ran them.

MR. DODD: Well, they were under Kaltenbrunner, were they not? He was the head of the whole police system in Austria at that time.

SEYSS-INQUART: Well, he was rather the commander of the Security Police; and how much influence he had there I could not say, but I think it was very little.

MR. DODD: You found out since you have been sitting here that he had quite a lot, didn't you? You now know that he had a lot to do with it.

SEYSS-INQUART: No.

MR. DODD: You mean to say you haven't heard here that Kaltenbrunner had something to do with the removal of the Jews?

SEYSS-INQUART: Yes, I shall leave that to Kaltenbrunner. From my own observations I do not know it.

MR. DODD: Well, I am not going to labor it, but that isn't what I asked you. I asked you if you haven't heard in this courtroom that Kaltenbrunner had much to do with the removal of the Jews.

SEYSS-INQUART: Yes.

MR. DODD: Certainly. You relate that back to your letter, don't you? And don't you now know that he had something to do with the removal of Jews at the time you wrote the letter?

SEYSS-INQUART: In my opinion, Kaltenbrunner had nothing at all to do with the evacuation of Jews as mentioned here, because

that was a wild action carried out by the Party or Gauleiter Globocznik.

MR. DODD: Do you remember when you got the authority, through Lammers, for the confiscation of property that you asked for in Austria?

SEYSS-INQUART: Yes.

MR. DODD: Have you seen these documents? They are new; your letter to Lammers, his reply back to you, and the order which was issued at your request. Those are three documents.

SEYSS-INQUART: Yes.

MR. DODD: Your letter to Lammers is dated 23 October 1938, and it is 3448-PS, which becomes Exhibit USA-886. And Lammers' reply to you is dated 24 October 1938 and it is 3447-PS, which becomes Exhibit USA-887. The order itself is 3450-PS, which becomes Exhibit USA-888.

That was a confiscation of the property of the Jews in Austria, was it not, which you requested?

SEYSS-INQUART: Yes. I testified yesterday, or the day before, that I co-operated in this matter by issuing decrees.

THE PRESIDENT: Shall we adjourn now?

MR. DODD: I can finish in 5 minutes, Mr. President.

THE PRESIDENT: Very well, go on, then.

MR. DODD: I would like to finish up, and I think I can do it.

Defendant, when did you first learn about the many Austrians who were dying in the concentration camps after the Anschluss?

SEYSS-INQUART: About the many Austrians who died in concentration camps? I really learned about that in this courtroom, but about the numerous Austrians who were in concentration camps, perhaps in the course of 1943-44. In 1938-39 I knew that some political opponents were in concentration camps, but they were gradually being released again, or at least some of them.

MR. DODD: Didn't you know that they were being killed in Buchenwald as early as 1939? Didn't you know some of the people, and know about their deaths? Now think a minute before you answer this. Didn't you know about the death in Buchenwald of people who had been your political opponents?

SEYSS-INQUART: I do not remember, Mr. Prosecutor.

MR. DODD: You never heard a word about it?

SEYSS-INQUART: I do not mean to say that at all. If you give me a name, then I shall tell you at once what the situation is.

MR. DODD: I know if I tell you the name you will tell me you heard it, I suppose. However, I am asking you first if you didn't in fact know that some of them were dying in these camps. That is all I want to know. It was pretty common knowledge in Austria, was it not?

SEYSS-INQUART: I shall most certainly admit that it is possible that I was told that one or another died in the camp even as early as 1938 or 1939.

MR. DODD: Well, you still continued to go on with the Nazis, although at least you knew that vast numbers of your fellow countrymen were being thrown into concentration camps. Didn't that make any difference to you? Whatever you thought before the Anschluss, you certainly knew what they were doing after it.

SEYSS-INQUART: That I knew that large numbers were dying is out of the question. That there were a few, one or another, who died would not have affected me particularly because, between 1934 and 1938, at least as many National Socialists had died in the concentration camps of Dr. Dollfuss and the Fatherland Front, that is to say, of the Austrian State.

MR. DODD: Well now, wouldn't you agree with me that conditions were very bad in Austria after the Nazis took over and they went from bad to worse and you knew it and everybody else in Austria knew it? Or do you want to take the position that they improved? I would just like to know what your opinion is.

SEYSS-INQUART: I will tell you quite frankly. Of course, if you listen today to the leaders of the political opposition, then it was terrible. However, if you saw the people up to 1939, then you could see that they had a new lease on life, because unemployment disappeared and there was quite a different spirit. But then the war altered all that.

MR. DODD: One last question, if you can answer it for me briefly.

Do I understand you to accept responsibility for whatever went on in Poland, whatever is established as having gone on in Poland? That is, joint responsibility with Frank? Do you accept that as his deputy?

SEYSS-INQUART: First of all, that can only apply to the time when I was there and acted as deputy.

MR. DODD: Of course. I certainly don't mean after you left there. I am only talking about the time that you were there.

SEYSS-INQUART: Well, then, as deputy, only where I acted as deputy, or where crimes came to my knowledge without my taking measures against them.

MR. DODD: I just want to read into the record one sentence from a document that has already been offered in evidence, Mr. President. It is Document 2233-PS; and from that document, Page 1, Paragraph 4, I would like to read this, because part of it was read by the Defense, but this part was left out. It is under the small Arabic Figure 3:

> "The necessary police and other measures arising therefrom will be under the immediate direction of the Chief of the Security Police; every arbitrary action is to be strictly avoided."

This had to do, by the way, with the "AB Action," concerning which this witness has testified.

The records show that you, indeed, Mr. Defendant, were present at the time that the Defendant Frank discussed this AB Action and made this statement which I have just read into the record. Certainly you don't deny responsibility for whatever was done under the AB Action, do you? Because you did know about that.

SEYSS-INQUART: Neither in connection with the AB case nor in any other case did I deny anything. I spoke especially about the AB Action.

MR. DODD: Mr. President, Document 2233-PS, which is USSR-223, is now available in the French. It is already in evidence and has been accepted by the Tribunal, but a French copy was not available at the time it was offered. It has now been completely translated into the French, and I offer it to the Tribunal for assistance in the French.

I have concluded my examination.

THE PRESIDENT: Mr. Dodd, you said that the document of 11 November 1937, 3369-PS, was a new document. Did you give it a number?

MR. DODD: Just a moment, Mr. President. I will check that. I meant to offer it, and I fear that I did omit to do so. That would become USA-889. It was a new document, and I did intend to offer it.

THE PRESIDENT: The Tribunal will adjourn, and we will reconvene at 10 minutes past 2.

[The Tribunal recessed until 1410 hours.]

Afternoon Session

DR. STEINBAUER: Witness, the French prosecutor asked you whether you were the deputy of Governor General Frank, and for that reason knew Auschwitz. Can you tell us where Auschwitz is located?

SEYSS-INQUART: Auschwitz was not in the region of the Government General, but rather in the area which belonged to the Gau Upper Silesia.

DR. STEINBAUER: Thank you. Then the same prosecutor confronted you with the testimony of a girl of 20 years old, by the name of Kunze, in 3594-PS. According to this testimony you allegedly repeatedly sent reports to Himmler.

SEYSS-INQUART: Yesterday evening, when I was confronted with this matter, I was rather tired, and made a statement somewhat in contradiction to the fact contained in the document, and said that under Paragraph 3 certain reports were mentioned which had no connection with me. Now this witness asserts that reports from me went to Himmler by way of the Security Police, dealing with the condition of the Jews. That is utter nonsense, which the results contradict. The Reich Commissioners were in no way subordinate to Himmler as far as the Jewish question was concerned. I sent perhaps two or three letters concerning individual cases. They went from my staff to the staff of Himmler; but never by way of the Security Police.

DR. STEINBAUER: That is sufficient. You were, in addition, confronted with the testimony of a Dr. Karl Georg Schöngarth in connection with the question of the shooting of hostages.

SEYSS-INQUART: Yes. Schöngarth was the successor, or more accurately, the deputy of Rauter; and it is correct that he came to me after he had inspected the scene of the assassination. He told me that Himmler demanded the shooting of 500 real hostages, prominent Dutchmen. I was aghast; and Schöngarth said immediately that that was completely out of the question. Thereupon I most certainly said to Schöngarth: "But we must do something, we must react in some way to this." He then told me that a number of cases of death sentences were on hand which were to be carried out by shooting within the next few days and weeks. He suggested that these people be shot and that an announcement be made to the effect that this was in retaliation for the assassination.

DR. STEINBAUER: Did you and the Armed Forces commander in the Netherlands, in connection with the question of hostages, issue warnings to the population, as is customary under international law?

SEYSS-INQUART: I believe there is a document available which contains a warning by me against sabotage, *et cetera,* in which I threatened, in the case of violation of the laws, to confiscate property and to draft the population for guard duty.

DR. STEINBAUER: I should like to call the attention of the Tribunal to the fact that this warning is contained in 1163-PS.

[Turning to the defendant.] Further, I have to confront you with a document which is an interrogatory of the Defendant General Christiansen, in which he says that you were the one who issued the order for the shooting of hostages.

SEYSS-INQUART: I believe that Christiansen does not say that. He admits that he issued the order; but what he means is that I, so to speak, was urging the matter behind the scenes. I made my statement, but perhaps the witness Wimmer can give us more exact details on this, since he was present at this discussion, as Christiansen himself states.

DR. STEINBAUER: Yesterday evening I once more studied this question, since the resolution of the Court remained in my mind to the effect that this statement by the witness, which is really the interrogation of an accused person, was admitted by the Court. In my opinion, Paragraph 21 of the Charter means something else here. I believe that a partial matter like that has no probative value, for it is theoretically possible that Christiansen could now be sentenced by the British on the grounds that his statement is not correct. Now, I do not want to delay this Tribunal, but I wish to call attention to the equivalent statement of Criminal Commissioner Munt, which I have already submitted in Document Number 77, Page 199.

Then I call your attention to another matter. The French prosecutor asserted that the Dutch secretaries general were left behind by the Dutch Government to serve as a government, and that you were not justified in interfering with the sovereignty of the Netherlands. What have you to say to that?

SEYSS-INQUART: I know nothing about that and I also believe it is of no consequence. The Netherlands capitulated, and they did so for the entire region except Zeeland.

The terms of capitulation consisted only of military details. From the civilian point of view it was unconditional surrender. I believe that on the basis of international law I was entirely justified in taking the government into my own hands.

DR. STEINBAUER: May it please the Tribunal, in this connection I should like to submit a document which takes issue with this question. This is a verdict by the Supreme Court of the Netherlands of 12 January 1942. In my final speech I shall refer to this

from the legal standpoint. It will be submitted to the Tribunal in certified form in four languages through the Prosecution who have agreed to this. The Exhibit Number is 96.

Then further, the French prosecutor asserted that you carried out mass shootings and, particularly, deportations of civilian workers and the displacement of Jews, in order to weaken the biological power of the Netherlands.

SEYSS-INQUART: I believe that I can cite concrete examples which show that I had the opposite intentions. It is certain that during a war losses do arise among the population, and perhaps if I had given more attention or put up greater resistance, I might have prevented something. That this did not take place, I truly regret. But two figures are decisive: the figures for mortality and those showing the increase in the population.

Until the year 1944, the mortality rate in Holland, on the basis of the statistical data of the Netherlands Statistics Bureau, rose from 9.5 to 10 per thousand, whereas in the years 1914-18, the original rate of 12 per thousand increased to 17 per thousand, in other words by almost 50 percent even though the Dutch people were under their own Government, were not in the war, and were not under a blockade. According to the statistics which I received from the Netherlands Statistics Bureau, from 1914 to 1918 there was a decrease of about one-half. In the year of my administration, up until 1944, the population increased from 20 per thousand to 25 per thousand. That is a good one-fourth increase. Of course it is primarily the will to live of the Dutch people. But it is surely also a consequence of the measures of my civil administration.

DR. STEINBAUER: In order to prove the figures just cited by my client, I should like to submit a report of the Netherlands Central Statistics Bureau. I received this by way of the General Secretary in a German and English version, but it is not certified. The original should be in the office of the General Secretary.

SEYSS-INQUART: I should like to remark that in these statistics . . .

THE PRESIDENT: Dr. Steinbauer, how do you show the relevance of this?

DR. STEINBAUER: Because in the Indictment and in the proceedings here, it was claimed that Seyss-Inquart had the intention of germanizing the Dutch people and of breaking resistance, and because he is also held responsible for the poor state of health of the population, the decrease in births, and the mortality rate. These were all assertions made in the Dutch Government report and in part also produced here. Yesterday, with the permission of the Tribunal, I submitted this query to the Dutch Government and I

received this answer. In fact it answered more than I requested, particularly taking war victims into account. But we will pay homage to the truth and submit it as we got it.

THE PRESIDENT: Are you putting that in then? Are you offering that in evidence?

DR. STEINBAUER: I submit it the way I received it from the General Secretary. It is Number 106.

SEYSS-INQUART: I should like to add that the reduction of the birth rate in the years 1914-18 is shown at a lower figure than the report which I received in January of 1945.

DR. STEINBAUER: I still have two brief questions regarding Austria. The first question is this: The American prosecutor has charged that you gave Mühlmann notes to take to Berchtesgaden. Can you say what the notes contained?

SEYSS-INQUART: Yes, that was the outcome of the discussion which I had just had with Dr. Schuschnigg and it included, above all, the agreement to call upon Dr. Jury, Dr. Reinthaller, and Dr. Fischböck, and the institution of national political sections within the Fatherland Front—in short, things that we had agreed on, things which Adolf Hitler, at Berchtesgaden, did not in any way have to put through for the Austrian National Socialists.

DR. STEINBAUER: Then the American prosecutor asked you whether you knew that Austrians died in concentration camps after the Anschluss. You answered, no, that you did not know this. But people did die in Austrian concentration camps. Here in this room, in the course of months, you have become familiar with concentration camps. Do you mean to say that they were identical with those which you meant?

SEYSS-INQUART: In no way at all.

DR. STEINBAUER: Thank you, that is sufficient.

SEYSS-INQUART: And apart from that, I said I heard that it might have been possible that Austrians died in German concentration camps. The Austrian concentration camps can in no way be compared with what we have heard here about German concentration camps.

DR. STEINBAUER: Thank you. I have concluded my examination-in-chief of the defendant, and with the permission of the Tribunal, I should like to call my first witness on the Austrian question, General Glaise-Horstenau.

THE TRIBUNAL (Mr. Francis Biddle, Member for the United States): Defendant, you said that you had considered that the laws of land warfare were obsolete. Do you remember?

SEYSS-INQUART: Yes.

THE TRIBUNAL (Mr. Biddle): Did you consider that they were all obsolete?

SEYSS-INQUART: No.

THE TRIBUNAL (Mr. Biddle): Which ones did you consider were obsolete?

SEYSS-INQUART: I was of the opinion that the contractual stipulations for the protection of the civilian population were outdated by technical developments in weapons, for obviously certain warlike measures like total blockade, demolition bombing attacks, *et cetera,* are directed primarily at the destruction of the civilian population and consequently are only justifiable if the civilian population is considered a war potential like the troops at the front. But if that is the case, then the civilian population of the occupied countries must be considered in such a way also.

THE TRIBUNAL (Mr. Biddle): And when you say "considered in such a way," you mean therefore Germany had the right to use the civilian population to fight the war, make ammunition and so forth; is that not the conclusion?

SEYSS-INQUART: That is my conclusion, yes.

THE TRIBUNAL (Mr. Biddle): When was that conclusion reached?

SEYSS-INQUART: I believe with the increase of the bombing attacks, approximately.

THE TRIBUNAL (Mr. Biddle): Never mind the increase of the bombing attacks. Just give me the date. When was it reached?

SEYSS-INQUART: At the end of 1941 or the beginning of 1942.

THE TRIBUNAL (Mr. Biddle): All right; now there are two short questions. You said that you told the Führer that you would not act as a Trojan Horse; is that right?

SEYSS-INQUART: Yes, of course.

THE TRIBUNAL (Mr. Biddle): Well, had he suggested to you that you should act as a Trojan Horse?

SEYSS-INQUART: No, not that, but I was fully aware of my difficult position. It was quite obvious to me that I could be misused for such purposes, that behind the back of my ministerial post a situation could be prepared so that Austria would be overrun.

THE TRIBUNAL (Mr. Biddle): Well, you used that expression after you had been talking to the Führer for some time, did you?

SEYSS-INQUART: In the course of the discussion, but the thought itself had come to me previously; I only brought it up during the discussion.

THE TRIBUNAL (Mr. Biddle): Yes, you had had this thought for some time?

SEYSS-INQUART: Yes.

THE TRIBUNAL (Mr. Biddle): Ever since you had gotten into this Austrian matter actively you had had the thought, I suppose?

SEYSS-INQUART: The possibility of dissension and of a difference of opinion about this situation was quite clear to me.

THE TRIBUNAL (Mr. Biddle): That your actions might be misconstrued?

SEYSS-INQUART: First of all; and secondly, that the fact of my activity could be exploited in a way that I did not intend.

THE TRIBUNAL (Mr. Biddle): Of course, because you represented both sides at the same time and that was always a difficult position, was it not?

SEYSS-INQUART: That is correct.

THE TRIBUNAL (Mr. Biddle): Well now, let us take up this matter of declaring forfeited property of enemies of the State. You made those declarations, I presume, did you not, as Reich Commissioner?

SEYSS-INQUART: Yes.

THE TRIBUNAL (Mr. Biddle): And was that made under a decree of the Führer's giving you authority to do that?

SEYSS-INQUART: That was a basic practice which was current in the Reich, and if I did not get the order I nevertheless had a sort of directive . . .

THE TRIBUNAL (Mr. Biddle): Now wait a minute. I did not ask you about the practice. It was made under a decree, was it not? That practice was under a decree?

SEYSS-INQUART: Yes.

THE TRIBUNAL (Mr. Biddle): And that decree applied to all occupied countries, did it not?

SEYSS-INQUART: I do not think so. I first announced this decree in the Netherlands myself. The measures in the Netherlands came about on the basis of my directive.

THE TRIBUNAL (Mr. Biddle): I understand that. I do not want to get you confused. Your action was taken under a decree of the Führer, was it not, giving you that authority; is that right?

SEYSS-INQUART: Let us say on the basis of a directive.

THE TRIBUNAL (Mr. Biddle): Of a directive of the Führer; right?

SEYSS-INQUART: Yes.

THE TRIBUNAL (Mr. Biddle): Is that directive in evidence? Has it been put in evidence?

SEYSS-INQUART: I do not think so.

THE TRIBUNAL (Mr. Biddle): All right. Now tell us what was in it. What was in that directive?

SEYSS-INQUART: It was the general directive that the property of persons who committed acts inimical to the Reich was to be confiscated. I had already issued a decree similar to this in Austria. The first one was issued in the Reich itself; that was the model.

THE TRIBUNAL (Mr. Biddle): Now, you were the person in the Netherlands who had complete discretion to make the determination of who was an enemy of the Reich, did you not? That was your decision under the decree?

SEYSS-INQUART: No, that was actually a matter for the Police and the courts.

THE TRIBUNAL (Mr. Biddle): I see.

SEYSS-INQUART: I only had influence.

THE TRIBUNAL (Mr. Biddle): Now, the Police did not have to go to the courts to get that determination surely, did they?

SEYSS-INQUART: No. Either the Police directly made a decision of this kind or the people were put at the disposal of the court and the court sentenced the people on the basis of certain offenses, and then on the basis of the judgment the property suffered the legal consequences.

THE TRIBUNAL (Mr. Biddle): Now, the property of the Freemasons was confiscated under that decree. What other property, of what other groups, was confiscated in the Netherlands under that direction of the Führer? I do not mean individuals; I mean groups.

SEYSS-INQUART: At the moment I cannot think of any others, although there were a few other groups.

THE TRIBUNAL (Mr. Biddle): But, in effect—see if I state the practice correctly—the Police would decide that an individual or group of individuals, on account of their words or their actions, were enemies of the Reich, and then their property would be confiscated; is that right?

SEYSS-INQUART: Yes. And the decisive office at the time was that of Heydrich.

THE TRIBUNAL (Mr. Biddle): The decisive factor was Heydrich?

SEYSS-INQUART: And the Netherlands agencies carried through his decisions.

THE TRIBUNAL (Mr. Biddle): And you carried through Heydrich's decisions; right?

SEYSS-INQUART: I carried through Heydrich's decisions when it came to property rights. The association of Jehovah's Witnesses belonged to those groups.

THE TRIBUNAL (Mr. Biddle): Oh, Jehovah's Witnesses belonged to the group too?

SEYSS-INQUART: They were also among them.

THE TRIBUNAL (Mr. Biddle): And the property of Jehovah's Witnesses was confiscated also, since they were enemies of the Reich?

SEYSS-INQUART: They probably did not have very much, but what they had was confiscated because of their attitude in refusing to serve in the war effort.

THE TRIBUNAL (Mr. Biddle): They refused—let me get this straight. This is interesting. Jehovah's Witnesses refused to fight or to serve in the German war effort and therefore their property was confiscated. Is that right?

SEYSS-INQUART: Not quite. Jehovah's Witnesses in Germany refused to serve in the German Army. So first of all they were prohibited there and then this prohibition was expanded for all other regions.

THE TRIBUNAL (Mr. Biddle): Wait a minute. I am not talking about that. I am talking about the Netherlands. Was that true in the Netherlands?

SEYSS-INQUART: Yes; but Jehovah's Witnesses in the Netherlands were not prohibited because they refused to serve in the German Army, but rather because we were against this group on principle.

THE TRIBUNAL (Mr. Biddle): Oh, I see, on general principles. As pacifists, you were against them, so you confiscated their property; right?

SEYSS-INQUART: Yes.

THE PRESIDENT: The defendant can return to the dock.

[The witness Glaise-Horstenau took the stand.]

THE PRESIDENT: Will you state your full name, please.

EDMUND GLAISE-HORSTENAU (Witness): Edmund Glaise-Horstenau.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Witness, what position did you have in the Austro-Hungarian Monarchy?

GLAISE-HORSTENAU: I was born in 1882 in Braunau in Upper Austria. I came of an officer's family of French descent. In 1918 I was a major in the General Staff of the Austrian headquarters as adviser on politics and the press.

DR. STEINBAUER: What position did you have then in the Austrian Republic?

GLAISE-HORSTENAU: After the overthrow of 1918 I was in the civil service as director of archives at the university, a historian and author. Among other things, I was the author of a basic work about the collapse of old Austria, which . . .

DR. STEINBAUER: General, I am sorry to interrupt you, but we want only your public positions; I am interested in knowing about them only.

What public positions did you have?

GLAISE-HORSTENAU: Director of archives; then, from 11 July 1936 on, I was Minister in the Cabinet of Schuschnigg, as guarantor of the July Agreement; and then during the March days of 1938, I was in the Cabinet of Seyss-Inquart.

In November 1939 I voluntarily entered the German Army, first in the obscure job of a graves registration inspector; and from 1941 on I had to do with military diplomatic tasks and was on duty at Zagreb without troop command. In September 1944 I was dismissed from my post in Zagreb because, being an Austrian of the old regime, I was against the official policy and was one of the basic opponents of the Ustashi terror. Another reason was that I was supposed to have called the head of the State, who was elected and appointed by us, Ante Pavelich, a "criminal subject," among other undiplomatic things.

DR. STEINBAUER: General, I shall put a few brief questions to you, and it is quite sufficient if you just answer them with a characterizing phrase. The Tribunal does not want to know very much about the Anschluss itself, but everything as to how it came about. Therefore I ask you very briefly: After the July Putsch of 1934, were you in any way connected with Chancellor Schuschnigg?

GLAISE-HORSTENAU: Yes.

DR. STEINBAUER: What was the economic situation at that time?

GLAISE-HORSTENAU: The economic situation at that time may be characterized through the average figure of unemployment. Out of 6 million inhabitants, 400,000 were unemployed, and that

means, counting their families, that more than a million were in the misery of unemployment.

DR. STEINBAUER: What possibilities were there regarding the expansion of the economic area?

GLAISE-HORSTENAU: In this connection I can say openly and immediately that all the possibilities always received "no" as an answer. If Austria wanted the Anschluss, the answer was "no." If Austria wanted to call the Hapsburgs back, the answer was "no." If Austria wanted to enter a German customs union in order to expand her economic area, the answer was "no." And when great men like Briand and Tardieu spoke of a Danube federation, we received only cold shoulders from our autarchically minded neighbors. That is the Austrian tragedy.

DR. STEINBAUER: Now a party was formed which took up the Anschluss as the main point of its program. What were the combat methods of this party?

GLAISE-HORSTENAU: In the year 1918 the standard bearer of this Anschluss was no less than the Social Democratic Party led by Otto Bauer who the year before had declared the Anschluss to be the only possibility for the Austrian proletariat. Later the National Socialist Party crowded to the front, though it was not unified, to be sure, until the end of the twenties by unconditional subordination to the leadership of Adolf Hitler.

DR. STEINBAUER: Who was the leader of the NSDAP in Austria at that time?

GLAISE-HORSTENAU: The leaders themselves changed frequently. Hitler, however, sent a land inspector by the name of—what was his name; a Prussian—I cannot think of the name at the moment—who was evicted from the country by Dollfuss in 1933. Habicht—Dr. Habicht is his name.

DR. STEINBAUER: And after him, is it correct that it was Captain Leopold?

GLAISE-HORSTENAU: After him, Captain Leopold rose to the leadership of the Party.

DR. STEINBAUER: And how did the Austrian National Socialists stand with respect to Adolf Hitler?

GLAISE-HORSTENAU: They considered themselves bound by absolute obedience and loyalty.

DR. STEINBAUER: Now the famous Agreement of 11 July 1936 was reached. After this agreement, you met Seyss-Inquart. What did he tell you about his political objectives?

GLAISE-HORSTENAU: I became well acquainted with Seyss-Inquart shortly before this agreement. I do not remember exactly

what he told me then about his political objectives. In general, it coincides with what he later set up as his political objectives.

DR. STEINBAUER: And what was that, briefly?

GLAISE-HORSTENAU: The Party, not as an organization, but only as a support for an ideology in the totalitarian instrument of the Dollfuss-Schuschnigg regime, in the Fatherland Front—at the same time its members were to acknowledge the State and Constitution in Austria, and had Adolf Hitler's blessing in addition.

DR. STEINBAUER: Did you yourself deal with the Führer, Adolf Hitler, or did you talk with him?

GLAISE-HORSTENAU: Apart from the March days of 1938, I had three opportunities to speak with Adolf Hitler.

DR. STEINBAUER: When did Seyss-Inquart enter the Government?

GLAISE-HORSTENAU: Seyss-Inquart entered the Government after 12 February 1938.

DR. STEINBAUER: Did he visit Adolf Hitler?

GLAISE-HORSTENAU: As far as I can remember, he visited Adolf Hitler on 17 February.

DR. STEINBAUER: Did he make a report about his visit with Hitler to Schuschnigg and the other members of the Cabinet?

GLAISE-HORSTENAU: Certainly he told Schuschnigg, and he told me as well.

DR. STEINBAUER: Did he collaborate in the planned plebiscite which was to take place on 13 March 1938?

GLAISE-HORSTENAU: At that time, without knowing about the plebiscite, I left, on the 6th of the month, on 2 weeks' leave. Therefore, I cannot give you a reliable answer to this question.

DR. STEINBAUER: But do you know whether this plebiscite had been decided upon in the Ministerial Council with the consent of Seyss-Inquart or not? Did he tell you about that subsequently?

GLAISE-HORSTENAU: To my knowledge, the plebiscite was not handled by any Ministerial Council.

DR. STEINBAUER: Did the National Socialists agree to the plebiscite?

GLAISE-HORSTENAU: So far as I could judge on my return from my leave, certainly not.

DR. STEINBAUER: Now, it became known that Schuschnigg wanted to have a plebiscite. Where were you and what did you experience at that time?

GLAISE-HORSTENAU: On 6 March, as I have already said, I went on leave, and in Stuttgart I gave a lecture, something I had planned for a long time. And the subject of my speech was "Central Europe in the Year 1000 A. D."

DR. STEINBAUER: We are not interested in details, only in the facts.

GLAISE-HORSTENAU: Then I undertook a private visit to Landau in the Pfalz to visit my French relatives, and there Bürckel, whom I had told nothing about my arrival, came to see me, and in his home I heard over the radio the speech made by Schuschnigg at Innsbruck. Immediately it was obvious to me that the scheduled plebiscite would, in view of Hitler's nature, certainly bring about some form of grave countermeasure, and I decided to fly to Vienna at once. Bürckel was to have arranged this. However, he telephoned to the Reich Chancellery and Hitler expressed the wish that I should come to Berlin. I gave the reasons for complying with his request to the American interrogator, and subsequently, only here, I found out why Hitler had called me to Berlin. I heard from the mouth of an absolutely authentic witness that he did not want me to return to Austria. He knew that I was an enemy of all solutions by force. During the night between 9 and 10 March I reached Hitler and entered upon a discussion which lasted for 2 1/2 hours, a conference which assumed no concrete proportions and led to no concrete decision. Instead he told me that during the course of the day, at 11 o'clock in the morning, he would have me called in. In fact, he did not call me until 8 o'clock in the evening in order to give me the drafts for Seyss-Inquart: a) of an offer of resignation for Schuschnigg, and b) of a radio speech.

I declared that I could not bring these notes to Austria myself, and I asked that it be taken care of in the regular way by courier.

Later on I received a third draft from Göring, who was Field Marshal at the time. There was a telegram therein, containing a second request to Hitler asking for the marching-in of German troops. I should like to say from the beginning, all these drafts—as far as I know also the third draft—had no actual significance. These were my experiences on the 11th in Berlin.

DR. STEINBAUER: Then you flew to Vienna and met Seyss-Inquart. What did you do with him on that critical morning of 11 March?

GLAISE-HORSTENAU: Seyss-Inquart met me at the airport. I advised him briefly about what had taken place in Berlin, and made entirely clear to him the grave misgivings which I had. Together, Seyss-Inquart and I, at 11 o'clock in the morning, shortly after my arrival, went to see Schuschnigg. While Seyss-Inquart placed before

Schuschnigg certain inner political problems which I did not know about because I had been absent, I pointed out to Schuschnigg, who was on the verge of tears, that there was great danger of new world complications, even of a new world war, and implored him to give in and to rescind the plebiscite which was scheduled for Sunday.

DR. STEINBAUER: Did you and Seyss-Inquart offer to resign?

GLAISE-HORSTENAU: I cannot recall whether we went so far orally. This discussion was comparatively brief, but afterwards, at about 1 o'clock, we offered to resign.

For this neither a decree by Hitler nor a decree by the National Socialist leader, Klausner, was necessary. Already on Thursday evening I had made my decision in the home of Bürckel that, in connection with the plebiscite, I would also make use of this traditional method of ministerial resignation in order to prevent the worst, if possible.

DR. STEINBAUER: And how did Schuschnigg react to this proposal to postpone the plebiscite?

GLAISE-HORSTENAU: Schuschnigg at first was rather reserved, but at about 2 o'clock in the afternoon, Guido Schmidt and Guido Zernatto—I do not have to tell you who these gentlemen were—made efforts to establish a *modus vivendi* with Seyss-Inquart. I myself kept in the background since my mission had already been fully accomplished on 12 February.

DR. STEINBAUER: And what did Seyss-Inquart do in the afternoon?

GLAISE-HORSTENAU: Shortly after this discussion, which led to no result, Schuschnigg still hesitated. But finally, he declared that in accordance with the wishes expressed he would postpone the Sunday plebiscite. I believed that the worst had passed. A short time thereafter Seyss-Inquart was called to the telephone, and returned visibly agitated, saying that he had been advised from Berlin that Hitler could not work any longer with Schuschnigg, and that Seyss-Inquart was to demand succession to the post of Chancellor.

Seyss-Inquart invited me to go with him to Schuschnigg. I turned this down for reasons of delicacy. Seyss-Inquart went in alone and returned after a brief period, and we had a discussion which seems to me to be of importance to this Court. He was confident of receiving the Chancellorship, and said to me, almost with an undertone of regret: "Now we will have to take in the Nazis after all, and we shall work with the Catholics and others who are of similar trends to establish a political combine with which I shall

govern." However, he was going to demand of Hitler, as far as internal politics were concerned, an agreement of 5 years' tranquillity.

DR. STEINBAUER: And, of course, Hitler did not agree to that. Instead he marched into Austria and you were confronted with a law. You were named Vice Chancellor. Did you sign this law, and why?

GLAISE-HORSTENAU: I was a cosignatory of this law. I entered into the Government after Keppler requested me to and I countersigned this law, for three reasons:

First, under the impression that Austria was completely alone in the world, and that no one was lifting a finger on our behalf; secondly, and I must say something here which has been said in the southern German press, I entered under the impression of the overwhelming street demonstrations that were taking place. You can call this mass psychology, or what you will, but this mass psychology was present and it was an unequaled popular demonstration. Thirdly, on the Ballhausplatz, on the night that I received this law into my hands—I did not participate in the origination of this law—the German tanks were rolling past below me, and the occupation of the country by Adolf Hitler was accomplished. With him this meant "bend or break." If Austria had tried to assert a different will it would not have been possible.

Of course, one is easily inclined to say about my home country that it should have committed suicide from fear of death . . .

DR. STEINBAUER: That is sufficient, General, thank you. Mr. President, I have no further questions to address to this witness.

DR. KUBUSCHOK: Was the July Agreement concluded as a result of pressure from Germany or through mutual desire and mutual interest?

GLAISE-HORSTENAU: It was concluded on the basis of mutual desire and mutual interest.

DR. KUBUSCHOK: Did you then and later have complete confidence in Schuschnigg and he in you?

GLAISE-HORSTENAU: Up until the winter of 1937-38, my relationship to Schuschnigg was one of complete confidence.

DR. KUBUSCHOK: Do you know anything about the intention of Herr Von Papen to effect the removal of Chancellor Schuschnigg?

GLAISE-HORSTENAU: Never did I have the slightest hint of that sort.

DR. KUBUSCHOK: What was the so-called "Langot aid fund"?

GLAISE-HORSTENAU: The Langot aid fund was a fund which was established quietly by the Government in typical Austrian

fashion—this is not intended as criticism, my saying that it is a typical Austrian fashion—for the help of National Socialist family members of National Socialists who had been imprisoned.

DR. KUBUSCHOK: Did Schuschnigg and the Government have knowledge of this fund?

GLAISE-HORSTENAU: Both of them knew about this and they both knew definitely of Langot.

DR. KUBUSCHOK: What was the attitude of the NSDAP and particularly of Leopold to Herr Von Papen?

GLAISE-HORSTENAU: The NSDAP and Leopold were completely opposed to Von Papen. They were inimical toward him to begin with because he was a Catholic, and they distrusted him additionally in every sort of way.

DR. KUBUSCHOK: Thank you.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

MR. DODD: Did you know a man named General Muff?

GLAISE-HORSTENAU: Yes, very well indeed.

MR. DODD: You were in the habit of telling him everything that went on in the Ministerial Consulate of Austria, were you not?

GLAISE-HORSTENAU: No.

MR. DODD: Do you know Stephan Tauschitz, the Austrian Ambassador to Germany?

GLAISE-HORSTENAU: Not him either. We spoke to him about some topic but that I should let myself be used as an informer was contrary to my tradition as a soldier of the Empire.

MR. DODD: Then what did you think you were being brought to Berlin for by Bürckel from Stuttgart?

GLAISE-HORSTENAU: I cannot follow you, I am sorry.

MR. DODD: What did you understand to be the purpose of your trip when you were being brought to Berlin from Stuttgart in March 1938, when Hitler wanted to see you?

GLAISE-HORSTENAU: I did not go to Berlin from Stuttgart, but rather from the Pfalz. Hitler had had me advised to come at all costs. I considered this matter and finally accepted, a) because I wanted to know what was going on in Berlin . . .

MR. DODD: I wanted to know what you thought was the purpose of your trip when you left, from wherever it was, to go to Berlin. That is all. What did you understand was the purpose?

GLAISE-HORSTENAU: My intention was to comply with Hitler's invitation and to see just what was taking place in Berlin.

MR. DODD: All right. Now you have told the Tribunal that you were interested only in a peaceful solution of the question. Surely, when you got this false telegram and the draft of the radio speech for Seyss-Inquart, you certainly did not think you were proceeding in a peaceful and loyal manner insofar as Austria was concerned, did you?

GLAISE-HORSTENAU: From all these three things I had gained the absolute impression that if Schuschnigg were to cancel the Sunday plebiscite, then a peaceful solution would still be possible.

MR. DODD: And what do you suppose you were going to do with that telegram, that false telegram that asked Hitler for help because of disorders? This was days before it actually took place. You knew that this was a complete fraud, an obvious fraud. Why did you even consent to carry that back to Austria?

GLAISE-HORSTENAU: I did not take it along. There was even a sharp difference of opinion between myself and Field Marshal Göring. I did not take it along. It was given to a courier.

MR. DODD: You told us; you know we have your notes here, in which you said that you did carry it along.

GLAISE-HORSTENAU: No, never did I say that. That was contrary to the truth. I never put down or said that I took any of these three things along personally, but I emphasized that the courier did that. I should like to call your attention to the fact that, according to the agreement of 12 February, Seyss-Inquart had the right to deal with Reich and Party agencies in the Reich.

MR. DODD: Well, in any event, you knew that the telegram was a falsehood, did you not? Whether you carried it or Globocznik did, it was not true, was it?

GLAISE-HORSTENAU: I beg your pardon, I had nothing whatever to do with this telegram afterwards. Months later I asked Seyss-Inquart whether this telegram had ever been sent off and he said "no," it had never been sent. I have already said that all three documents were not used.

MR. DODD: Certainly they were not given to you by Hitler to be thrown away, and when you consented to carry them, you did not know that they were not going to be utilized, did you?

GLAISE-HORSTENAU: Anything further was the task of Seyss-Inquart who, according to the Berchtesgaden agreement, had contact with the Reich and Party offices . . .

THE PRESIDENT: Witness, will you try to answer the question instead of answering something else?

GLAISE-HORSTENAU: Very well . . .

MR. DODD: Well, I am not going to press it any further. You seem to think that you had some other reasons, but I do not want to press it any further.

GLAISE-HORSTENAU: No, I would be very grateful if I could follow, but I do not understand this question.

MR. DODD: Well, if you do not understand it, I do not think there is any point in pressing it.

GLAISE-HORSTENAU: I should be very grateful if you would repeat it.

MR. DODD: What I suggested in my question was what you, at least, knew about this false telegram which was handed to you, a draft of it, I think you said either by Hitler or by Göring. You were then a Minister without Portfolio of the Austrian Government. You certainly knew it was a complete falsehood and yet you were willing to go back to Austria and deal with Seyss-Inquart, knowing that such a telegram had been arranged, and that it had been sent by courier.

GLAISE-HORSTENAU: The telegram had lost all significance through the fact that Schuschnigg canceled the plebiscite, and I told Schuschnigg explicitly—leaving it to Seyss-Inquart, who sat beside me, to say anything more specific—that Hitler would march in if we did not call off the plebiscite. That is exactly what I said to Schuschnigg.

MR. DODD: All right. That is not what I am talking about, but I am not going on with it.

Do you remember telling us that at the time that Göring was talking to Seyss-Inquart at the telephone, you found out that the Defendant Von Papen and Fritz Wiedemann were sitting beside Göring in Berlin?

GLAISE-HORSTENAU: I am sorry. I only heard about that after the collapse in 1945, from Wiedemann.

MR. DODD: What I want to know is, how did you find that out?

GLAISE-HORSTENAU: I found out from Captain Wiedemann, whom I just happened to be with.

MR. DODD: All right. Now, you know Defendant Von Papen once wrote a letter to Hitler and he said that you were a willing collaborator with him with respect to the possibility of union or Anschluss with Germany, and that was way back in 1936. Do you know about that? It is in evidence in this case, USA-67, Document 2246-PS. Were you a willing collaborator with Von Papen?

GLAISE-HORSTENAU: I was a willing collaborator for the normalization of the relations between the two countries; but I am not familiar with this document.

MR. DODD: I have no more questions.

THE PRESIDENT: Do you want to re-examine, Dr. Steinbauer?

DR. STEINBAUER: No.

THE PRESIDENT: The witness can retire.

We will adjourn now.

[A recess was taken.]

[The witness Rainer took the stand.]

THE PRESIDENT: Will you state your full name, please?

FRIEDRICH RAINER (Witness): Friedrich Rainer.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: What functions, and for how long, did you have in the NSDAP?

RAINER: I have been a member of the NSDAP since 10 October 1930. Until 1934 I had no functions. Afterwards Gauleiter Klausner of Carinthia called me to the Gauleiter's office. Beginning in 1936 I worked in the Landesleitung. Landesleiter Leopold, in the autumn of 1936, relieved me of my position because there were differences of opinion between us. In February of 1938 Klausner again appointed me his political adviser and co-worker in the Landesleitung. In May 1938 the Führer appointed me Gauleiter of Salzburg. On 1 December 1941 I was transferred to Carinthia. Those were my political functions.

DR. STEINBAUER: You were therefore Gauleiter of Carinthia at the end?

RAINER: Yes.

DR. STEINBAUER: And through years of work in the NSDAP you had a chance to get to know it well?

RAINER: Yes, I know the conditions well since the Anschluss.

DR. STEINBAUER: When did you get to know Seyss-Inquart?

RAINER: The first time that I met Seyss-Inquart was in August 1935. We had a conversation which lasted a few minutes. A few days later I was arrested, and for 6½ months I was in the custody of the Austrian police. After my release in approximately April or May 1936 I met Seyss-Inquart again in Vienna and remained in contact with him after that.

DR. STEINBAUER: Was he a member of the Party?

RAINER: During the time that the Party was prohibited Seyss-Inquart was not a member of the NSDAP, but he was a member of the Styrian Home Guard. That organization was, I think in 1933 by agreement between its leaders and Habicht, taken over entirely as part of the Austrian NSDAP. After the Anschluss that transfer was not recognized by the Reich Treasurer, Schwarz, and the members of the Styrian Home Guard, among them, I believe, Dr. Seyss-Inquart, had to apply again for membership.

DR. STEINBAUER: So your statement in the famous "Rainer letter"—I shall call it the Rainer letter henceforth for short—is incorrect?

RAINER: At that time I did not know that the transfer in its original form had not been recognized by the Reich Treasurer.

DR. STEINBAUER: So that we can say you knew Seyss-Inquart, you had talked to him quite frequently, and surely he would have told you his ideas regarding the Anschluss?

RAINER: Yes.

DR. STEINBAUER: What were these ideas? Please be very brief.

RAINER: The Anschluss, at that time, was not the subject matter of our discussion. The idea of the Anschluss was a point in the program of all Austrian parties; it remained the ideal goal for all of us. In this case, however, what we were concerned with was that the Austrian State should once again steer a course toward Germany and that internal conditions should be peaceful. The difficulty in this connection was that the State founded by Dollfuss and Schuschnigg, by disregarding the democratic constitution, was going to permit only a one-party system. It was particularly difficult, therefore, to draw into participation and to legalize the great mass of the opposition of the National wing. That task, according to Seyss-Inquart's conception and my own, was to be carried out without further bloodshed by peaceful means. With good will on both sides and a postponement of radical means such a way seemed possible.

DR. STEINBAUER: Then came the Agreement of 11 July 1936?

RAINER: Yes.

DR. STEINBAUER: Then you, at that time, went to see Adolf Hitler to clarify his attitude toward the party. What did Adolf Hitler say to you at the time?

RAINER: A few days after 11 July 1936 I was called to Berchtesgaden, and on 16 or 17 July I visited Adolf Hitler.

THE PRESIDENT: I think you can go a little quicker than you are going, Witness.

RAINER: The Führer made very serious and thorough observations, and he demanded in very severe words that the Austrian National Socialists should respect the Agreement of 11 July under all circumstances. He criticized the previous methods, and he used the expression that they had been heroic, but stupid. He pointed out that the continuation of such methods would lead to continuous difficulties in foreign politics.

He demanded that the National Socialists in Austria should use the existing political possibilities. Upon my specific question whether this included the Fatherland Front, he said "yes." He assured us that in the near future the general tension would be relieved by an improvement in the relationship between these two German states.

DR. STEINBAUER: In its essentials, therefore, he approved of Seyss-Inquart's policy?

RAINER: The Führer's statement, to me, meant a confirmation of the correctness of the way in which we had decided to go.

DR. STEINBAUER: Was Seyss-Inquart also the leader of the Party?

RAINER: No, Seyss-Inquart was never the Party leader.

DR. STEINBAUER: Did he subordinate himself to the leadership of the Austrian NSDAP as you state in your letter?

RAINER: Seyss-Inquart was a member of the National Opposition group, and in that capacity he recognized the existing leadership.

I want to draw your attention to the fact that he recognized Klausner in that letter because Klausner, according to the Berchtesgaden agreement, had replaced Leopold by request of the Führer, since he promised to steer a quiet, clear, and open course. Cooperation with him appeared to assure adherence to the Berchtesgaden agreement.

Seyss-Inquart, however, had explicitly stated that in his capacity as trustee for the Berchtesgaden agreement and Minister in Schuschnigg's Government he was independent of Klausner.

DR. STEINBAUER: Tell me, Witness, after the understanding of 12 February 1938 did you, during a railway journey, meet Seyss-Inquart who was coming back from his visit to the Führer?

RAINER: Yes.

DR. STEINBAUER: What did he tell you about his conference with the Führer?

RAINER: Seyss-Inquart returned in a sleeper, and we sat together in his compartment. He had a piece of paper—I think it was an envelope—and on that there were notes. I remember that

he described the formalities which had taken place at the beginning by saying that he had come in his capacity as an Austrian Minister, bound by oath to the Constitution, and responsible to the President and the Chancellor of Austria. He said that he was greeting, in Adolf Hitler, the leader of all Germans. Afterwards he told me in detail about points of that conference, not all of which I can remember now. My whole impression was that the discussion had passed satisfactorily, and I recognized that the conference had been conducted in a spirit of full loyalty to Chancellor Schuschnigg. As far as I can remember, the Anschluss as such had not been dealt with at all.

DR. STEINBAUER: Do you remember his telling you that he had stated to Hitler that he would be Schuschnigg's living guarantor, and not a Trojan Horse?

RAINER: I do not wish to confirm those exact words. The expression which Dr. Seyss-Inquart repeatedly used was that he was not a Trojan Horse leader. Furthermore, I remember that he had used the expression frequently that he was the living guarantor for mutual adherence to the agreement of Berchtesgaden.

DR. STEINBAUER: Did he also say that he refused to have a cultural fight?

RAINER: I do not believe that I can remember that. At any rate, that was his point of view, and I certainly assume that he spoke to the Führer about that.

DR. STEINBAUER: Did the Führer agree to these proposals?

RAINER: I had the impression that Adolf Hitler was in full agreement with the suggestions of Dr. Seyss-Inquart.

DR. STEINBAUER: Did Seyss-Inquart tell Schuschnigg that?

RAINER: That I must assume. At any rate, he did state that that was his intention.

DR. STEINBAUER: Did he tell the Austrian National Socialists the same thing?

RAINER: Yes, because that was particularly necessary. Seyss-Inquart made a speech at a conference of leaders at the beginning of March and pointed out that an evolutionary course and measures which were to a certain extent disappointing to the radical followers—namely, the dissolution of the illegal organization—were specifically desired by Adolf Hitler.

I think I can also remember that during the large demonstration at Linz, and on the occasion of the demonstrations at Graz, he referred to that specifically; for the visit to Adolf Hitler in Berlin gave him the necessary legitimate foundation in the eyes of the National Socialists.

DR. STEINBAUER: In this Rainer letter of yours you wrote that Seyss-Inquart had been informed of preparation for revolutionary steps.

RAINER: May I ask you, Dr. Steinbauer, which revolutionary steps you mean?

DR. STEINBAUER: Those of 10 March.

RAINER: May I have permission to go into some detail in this connection? The expression "revolutionary steps" is too far-reaching. The measures which were introduced were mainly these: After Chancellor Schuschnigg's speech at Innsbruck, Major Klausner was convinced that thereby every basis for an inner political understanding had been destroyed and that this speech would be like a spark in a powder barrel.

Whereas previously we had had consultations under what circumstances the vote might be "yes," it had now, in view of the attitude of the broad masses, become impossible.

A clear-cut indication of attitude by the National Socialist leaders had to be brought about. During the night, the new Gauleiter were still being given their first piece of information about the Party not being agreeable to the proposed plebiscite, and that therefore the slogan would be, for the time being, to refrain from voting. The strictest discipline was demanded, because we feared that feeling would soon run very high. On 10 March the long-prepared propaganda of Zernatto began, and clashes occurred. We also had reports to the effect that large groups of the Protective Legion, forbidden in February 1934, were being armed. Strictest alert was ordered for the formations, therefore, and the formations received orders to provide protection for the Nationals.

Essentially, these were the steps ordered on the 10th; I think I informed Dr. Seyss generally, in the afternoon, regarding the atmosphere in the provinces. I probably did not inform him about individual organizational measures.

DR. STEINBAUER: Did he promote that atmosphere?

RAINER: No.

DR. STEINBAUER: Did he demand demonstrations, or did he prevent them?

RAINER: He neither promoted them, nor did he urge them. Prevention at that stage was no longer possible.

DR. STEINBAUER: Then what happened on the morning of the 11th?

RAINER: On 11 March in the forenoon I was working at the office of State Councillor Jury at 1 Seitzergasse. I no longer know at exactly what task. We met Dr. Seyss, Glaise-Horstenau, and

several others about noon in the office of Dr. Fischböck, and Dr. Seyss-Inquart told us of the outcome of the conferences with Dr. Schuschnigg.

The result of our consultation was the letter which the Ministers and State Councillors wrote to Dr. Schuschnigg, which set a time limit for 2 o'clock in the afternoon, demanded the cancellation of this unconstitutional plebiscite and the fixing of a new plebiscite a few weeks later in accordance with the regulation of the Constitution, or we would resign.

DR. STEINBAUER: Then what happened? Schuschnigg postponed the plebiscite. How did you hear about that?

RAINER: Yes. Schuschnigg postponed the plebiscite, but he refused to give a date for a new plebiscite and gave orders to Dr. Seyss, the Security Minister, to adopt severe measures. That solution was reported to the Chancellery in Berlin by telephone in the afternoon, and it produced the statement from the Reich that this solution, as a half-solution, was not acceptable any more. As far as I know, that started the intervention by the German Reich.

DR. STEINBAUER: But was not intervention already brought about through the fact that Glaise-Horstenau, as has been stated, or a courier, took a letter from Adolf Hitler to Vienna?

RAINER: It was my view that certain drafts which Globocznik showed me at midday, and which had been addressed to the Landesleitung offices, had been brought along by Glaise-Horstenau who came back from Berlin that morning. As I heard later, that was reportedly done by a courier. In my opinion this was not an intervention on the part of the Reich.

DR. STEINBAUER: Was there collaboration between the Party and the Reich on one hand, and Seyss-Inquart on the other?

RAINER: If you mean "conspiracy" by "collaboration," then I must say definitely, "no." But the collaboration which was agreed upon at Berchtesgaden was carried out.

DR. STEINBAUER: Did Klausner give the order that the Party was free to act and that it was to seize power?

RAINER: Through a specific order from Adolf Hitler, the Party was bound not to undertake any revolutionary steps. That order had been retransmitted by Keppler during the early days of March, and Foreign Minister Von Ribbentrop had called Keppler, who was already in the plane, back in order to impress upon him . . .

THE PRESIDENT: Dr. Steinbauer, surely, the question was what Klausner did, and the witness is now telling us what a lot of other people did.

DR. STEINBAUER: Yes.

I asked you, when did Klausner give the order to the Gauleiter to seize power?

RAINER: That order was given by Klausner on the evening of 11 March.

DR. STEINBAUER: Did Seyss-Inquart approve?

RAINER: Seyss-Inquart was not informed of that until some time later.

DR. STEINBAUER: Now I must put to you the fact that Gauleiter Eigruber, of Upper Austria, has stated in an affidavit that he received a telegram in which he was addressed as Landeshauptmann. Do you know anything about that?

RAINER: I know nothing whatever about telegrams, or a telegram. I know that Klausner's order was telephoned from 1 Seitzergasse. That evening Globocznik was also putting through calls from the Chancellery. I assume that Eigruber is referring to one of these telephone calls.

DR. STEINBAUER: Is it known to you that Globocznik, who was Gauleiter of Vienna before this illegal period, told you that he misused the name of Seyss-Inquart for the seizure of power?

RAINER: Globocznik told me that several inquiries had been directed to the Chancellor's office which were passed on to him over the telephone, and that he did not always state his name in that connection. One special case relative to Salzburg is known to me very well.

DR. STEINBAUER: In this Rainer letter you also made a statement which mentions some assistance rendered on 25 July 1934. The Prosecution considers that this has some connection with the murder of Chancellor Dollfuss.

RAINER: That remark goes back to a conversation during which Seyss-Inquart told me that after 25 July he had been afraid for a few days that his name might be connected with those events. But after a few days it turned out that there was no such connection. Subsequently he tried to exert his personal influence toward reconciliation and he took over some defense cases. That is what I meant.

DR. STEINBAUER: So that is your explanation for the expression "rendering assistance"?

RAINER: Yes.

DR. STEINBAUER: Do you know that pressure was exercised on President Dr. Miklas by the Austrian National Socialists, so that he would appoint Seyss-Inquart?

RAINER: The negotiations, which occupied the entire late afternoon and evening, were under a certain amount of pressure; for practically in the whole of Austria the change had already been carried out. The overthrow of Schuschnigg's Cabinet loosed a tremendous avalanche. During the negotiations that fact made itself felt.

DR. STEINBAUER: In other words, you mean that clearly there was pressure, but not physical, directly upon the person of the President?

RAINER: There can be no question of that.

DR. STEINBAUER: But then, how do you explain that at that time 40 SS men marched into the Chancellery building and occupied it?

RAINER: An occupation by the SS is hardly the right expression. When, toward 8 o'clock in the evening, Miklas had again refused to nominate a National Socialist as Chancellor, Keppler stated that at 8 o'clock—not as originally declared—they would march in and he stated his fear for the safety of the negotiators. In fact, as was said in Austria, things were generally in commotion and the situation appeared very unsafe. The Chancellery building was occupied by the police and by the guards and was put in a state of defense. I informed the Landesleitung of this situation and asked them to take protective measures so that willful acts would not cause unnecessary misfortune. In consequence of the measures which were then introduced, I estimate that no earlier than 10 o'clock in the evening an SS leader reported in civilian clothes, stating that he and his men had been assigned to protect the negotiators. Seyss-Inquart considered that step excessive but I asked him to take the measure into consideration, and he then allowed these men to pass through the police and guards, and they were admitted to the courtyard of the Chancellery building. There was never any pressure nor were there acts of force; it was merely a precautionary measure.

DR. STEINBAUER: I have no further questions.

DR. SERVATIUS: Witness, you were Gauleiter of Carinthia. Did you also have administrative powers during the war in the neighboring area of Italian sovereignty?

RAINER: Yes. In September 1943, I was appointed Supreme Commissioner in the operational zone "Adriatic Coastland," with my seat in Trieste, and I had six provinces under my authority.

DR. SERVATIUS: Did you recruit foreign workers there for employment in Germany?

RAINER: Yes.

DR. SERVATIUS: In what mannner was this done?

RAINER: It was done through recruiting, that is to say, without employing coercion, since for many decades these workers were accustomed to go north to work.

DR. SERVATIUS: These workers were put to work in your Gau, were they?

RAINER: The majority were put to work in my Gau, but also in other parts of the Alpine regions.

DR. SERVATIUS: What were the living conditions of these people in your Gau?

RAINER: Their living conditions were the general and normal ones.

DR. SERVATIUS: Where were they accommodated? In camps? Did you see any such camps?

RAINER: They were housed by their employers. Where larger numbers of them existed they lived in camps which were looked after by the Italian consulate and the German Labor Front.

DR. SERVATIUS: Did the Labor Front supervise matters in practice?

RAINER: Yes, it was bound by an agreement to that effect, of which I was informed, and it took great pains to carry out that task.

DR. SERVATIUS: Did you yourself inspect any camps?

RAINER: Yes. I inspected camps repeatedly and I found conditions to be in good order. In the case of certain industries, for instance the water works, I found that conditions were exceptionally good.

DR. SERVATIUS: Can you give us the names of these camps?

RAINER: A particularly good impression was made on me by one camp attached to some water works at Münd on the Drau River; the same applies to Schwabeck.

DR. SERVATIUS: How did these foreign workers behave at the end of the war? Were there riots?

RAINER: No. Due to the considerable number of workers in my small Gau I was worried about the food supply. Relations with the population were good because the Carinthian is a good-natured and agreeable type of person. I myself have experienced that French workers who had already been collected by the British in camps to be transported away, went back to their farmers, preferring to wait there rather than in the camp.

DR. SERVATIUS: Was the National Socialist Party strongly represented in Carinthia?

RAINER: Yes. There were so many National Socialists in Carinthia that Schuschnigg said on one occasion: "One ought to put barbed wire around that county and the concentration camp would be complete."

DR. SERVATIUS: But their relations with the foreign workers were good?

RAINER: Yes, naturally.

DR. SERVATIUS: I have no further questions.

MR. DODD: Witness, when did you come to the conclusion that this Defendant, Seyss-Inquart, was not a member of the Party as you stated in your letter? When did you change your mind about that?

RAINER: I did not learn until fairly late after the Anschluss that he was not a member of the Party. I cannot tell you the exact year any more.

MR. DODD: But it was not long after you wrote this report, was it, that you found out that what you had said in here was not exactly so? You had misunderstood?

RAINER: In that report I made various attempts to describe matters in a manner favorable to Seyss-Inquart, because I refused to support the Prosecution against Dr. Seyss-Inquart.

MR. DODD: Now that is not what I asked you. I asked you if it was a fact that you found out soon after you wrote this letter that you were in error in stating that Seyss-Inquart had been a member of the Party. Now you can answer that very directly, I think, without any long statement.

RAINER: I do not believe that I noticed it shortly afterwards.

MR. DODD: Well, when was it? That is all we want to know. If at any time you actually did receive such information, when did you receive it?

RAINER: That I can no longer say and it did not appear important to me at the time.

MR. DODD: All right. Now when did you change your mind or find that you were in error in saying that Seyss-Inquart knew about and participated in the staged demonstrations or the arrangements for the demonstrations which were to take place in Vienna? When did you find that that was misinformation or a mistake?

RAINER: I am not aware that Dr. Seyss-Inquart participated in demonstrations in Vienna.

MR. DODD: Now that is not what I said. If you misunderstood me, I am sorry. Now turn around and maybe if you will look at me it will help a little. You told the Tribunal, in answer to a question

from Dr. Steinbauer, that Seyss-Inquart did not provoke the demonstrations and he could not prevent them at that stage. But what Dr. Steinbauer asked you was if what you said in your letter about his participation in the plans was true. You know what you say in your letter or your report, do you not? Do you remember what you said in this report about Seyss-Inquart and his participation?

RAINER: The details of my report are no longer in my memory.

MR. DODD: Would you like to look at it?

RAINER: Yes, please.

MR. DODD: While you are waiting for it I can clear some other things up here. Now as a matter of fact, you gave us an affidavit in November, swearing that this was true, did you not?

RAINER: I specifically stated in this connection that I was partly relying on information received from authoritative individuals and that afterwards I had further information showing me that not everything had been correctly represented. I also stated specifically, and had it included in the record, that I had made these statements with a certain bias. A supplement to my affidavit was also made.

MR. DODD: Just a minute. On 15 November 1945, right here in Nuremberg, under oath, you executed this affidavit in which you said that you confirmed the facts of this report and that they were all true to the best of your knowledge and belief. Now what information have you received since 15 November and from whom, that warrants you in making statements contrary to this report today before this Tribunal?

RAINER: I wish to state in this connection that the point of view which I adopted on 15 November is maintained by me today.

MR. DODD: Well, is this report true or not in its entirety, as you told us it was on 15 November?

RAINER: The report must not be taken literally. Partly it is based on statements made by reliable people, and I made it to the best of my knowledge and belief according to the situation existing, I believe, in July 1939, with a certain bias.

MR. DODD: Well, you told us it was true in November, did you not?

RAINER: I did not say that. I said specifically . . .

MR. DODD: I will show you your affidavit. Your affidavit is attached to that document that you have, and that is your signature, is it not, and you have sworn to the truth of it?

RAINER: I made a specific statement in connection with it, and as a precaution I made a short note about it afterward. The formulation of the reservations was discussed at length.

MR. DODD: Now you answer my question. Is that the affidavit that you executed under oath on 15 November here in Nuremberg? Yes or no?

RAINER: Yes.

MR. DODD: Now, in there you say that you testify and confirm that "The facts which form the basis of the above-mentioned letters and reports are true to the best of my knowledge and belief," and you also say further up that you have read the letters and the report.

Now, is that affidavit true? Were you telling the truth when you said that to us under oath in November?

RAINER: That affidavit is correct, but I demand that the explanations which I gave in connection with it and which were made apart from the record at that time—at least they were taken down in shorthand—be added to it.

MR. DODD: Why did you not ask that there be included in the affidavit anything that you wanted about this report if it was not altogether true? You were swearing to it. Did you ask that something be added to it or that it be changed?

RAINER: I considered this statement to be a statement of the genuine character of the documents which had been submitted to me. The record of my statements contained my opinion of the contents of these documents, and as a precaution I added a statement that in this case, too, I wished certain reservations to be taken down. They were subsequently formulated by one of the gentlemen interrogating me, stating "... to the best of my knowledge and belief ..." and then he went on to say that all these reservations which I had stated had been expressed in accordance with the method customary with you.

MR. DODD: Now, are you really serious in telling this to this Tribunal today about this affidavit? Are you really serious about this last statement?

RAINER: I am absolutely serious about it. I have nothing to hide.

MR. DODD: Now maybe we can shed a little more light on the kind of reports that you make. I have another one here that you have not seen. You made a speech in 1942. This is Document 4005-PS. It becomes USA-890.

You had better have a copy of this in front of you, USA-890. Do you remember that speech that you made on 11 March 1942 in Klagenfurt before the Leader Corps and the bearers of honor insignia and blood orders of the Gau Carinthia, in which you told the whole story of the development of the events of March 1938? Do you remember the day you made that speech?

RAINER: I did make a speech of that kind.

MR. DODD: All right. Now, let us look at it. Were you telling the truth the day you made that speech?

RAINER: I represented the events in a way in which my audience would understand.

MR. DODD: Were you telling the truth when you made that speech? I did not ask you if you made it interesting; I asked you if you told the truth.

RAINER: I believe I spoke the truth at the time, but I also believe that there were certain things on which I was not correctly informed.

MR. DODD: Now, let us take a look and see what you said in 1942 with reference to this report, 812-PS.

Now, if you will turn to—I think it is Page 8 of your text, I am trying to locate for you the sentence that begins:

"Only in co-operation with us, Jury, and a number of co-workers of Leopold, and also with Leopold's consent, was it possible to achieve Seyss-Inquart's appointment to the post of State Councillor. More and more Seyss turned out to be the clever negotiator. We knew he was the one who would best represent the interests of the Movement in the political forefield. He also unconditionally subordinated himself to Klausner's leadership. He always conducted himself as Klausner's deputy and conscientiously followed Klausner's instructions.

"With Seyss' appointment to the post of Staatsrat, we found a new possibility to enter into further negotiations. At that time there were a number of grotesque situations. We were informed on events in the Schuschnigg camp by the political apparatus; our own connection to Ribbentrop, Göring, and Himmler we had via Keppler."

Did you say that in your speech as reported there in the text of it, and how do you reconcile that now with what you have told the Tribunal about the report to Bürckel?

RAINER: It is not known to me where that record of the speech originates. I should have to have an opportunity . . .

MR. DODD: I will tell you. It is a captured document that was found down there in the files, so you need not worry about that. What I want to know is whether or not you now admit that you made this speech and you said these things at the time that you made it.

RAINER: I made the speech, but I declare emphatically that whatever I have said under oath today about that point is the true

version. This is a broad statement designed for the audience of that time, which cannot be taken as literally as something which I say today, conscious of my responsibility.

MR. DODD: You are not speaking broadly for the benefit of an audience here today, are you?

RAINER: That is correct.

MR. DODD: Let us turn a page and see what you said about Papen, and about the conference. You go on to say how you got information, how you met in the Ringstrasse, and so on. If you will follow right along now, we will not lose the places.

> "Papen had been expressly told to handle preparations for the conference confidentially. In Austria, only Schuschnigg, Schmidt, and Zernatto knew about it. They believed that on our side only Papen was informed. Papen, too, thought that only he knew about it, but we too were informed and had had conversations with Seyss about the subject."

That is the Berchtesgaden conference. Now, were you telling the truth when you said this in 1942, or not? Or was that a broad statement for the benefit of the audience?

RAINER: I cannot today check this document against a correct reproduction of what I said then.

MR. DODD: Well, why not? It was in 1942. Do you not remember? Do you mean that you do not know whether you told the truth or not, or you do not know whether you said this or not?

RAINER: In those days I gave a description before the simple people of Carinthia and I . . .

MR. DODD: Did you lie to them or did you tell them the truth?

RAINER: No, but I speak to people like that differently than I would speak under oath before this Tribunal, having to make concrete statements about concrete points. It seems impossible to me that I should today be required to confirm individual points of a speech which was made 4 years ago.

THE PRESIDENT: Did you have an answer? He is not answering your question.

MR. DODD: No, Sir, he is not.

[Turning to the witness.] I asked you whether or not you made these statements on that day, and if you did so, were they true? Now, you can tell us that very simply and we do not need any long answer. You have read it over and you have heard me read it. Now, please give us an answer.

You do not need to read any more. You have read it once and I have read it to you. Was that true and did you say it?

RAINER: In details it is not correct.

MR. DODD: Well, is it true in any respect? Is it true that Papen was informed and that Seyss-Inquart knew about that conference long before it took place or sometime before it took place? That is what we want to know.

RAINER: When we met during the Olympic winter games in Garmisch, we encountered . . .

MR. DODD: Now, just a minute. You are not answering my question. That is the next paragraph or the next sentence which you have been reading. I know that is coming and I am going to ask you about the meeting in Garmisch. I am now asking you if what you said about Von Papen and Seyss-Inquart is the truth, and that is all I want to know.

RAINER: It is correct that at about this time we were informed about the intention of having a conference.

M. DODD: And that Seyss-Inquart knew about it.

Now, let us go on a little bit further and find out about this Garmisch meeting. You were invited down there to the Olympic games, you say, and you had a meeting with Papen and Seyss-Inquart and they went through some negotiations, and then you went on to Berlin.

Now, I want to move down a little bit. There is a lot of interesting material here. We do not have the time to go into it all just now. You go on down quite a bit, and I want to ask you about what you say you had already prepared.

"We had already prepared the following"—and you are talking about Schuschnigg and the impending conference. It is on the back of Page 9 of your text, Witness, and it is on Page 5 of the English text, the last paragraph. You say:

"We had already prepared the following:

"The last result of the conversation Seyss communicated to me in a shop in the Kärntnerstrasse. I called the telephone number where Globus was to be reached in Berlin . . ."

By the way, for the benefit of the Tribunal, Globus is Globocznik, is he not? He is the same person, is he not?

RAINER: Yes.

MR. DODD: ". . . and told him about the negative result of the conversation. I could speak with Globus entirely freely. We had a secret code for each name, and besides we both spoke a terrible dialect so that not a soul would have understood us. Globus immediately wrote down this report . . ." and so on.

"In the meantime, Keppler had gone to Munich by sleeping car."

Then, a sentence or two further down:

"I then forwarded instructions by Party member Mühlmann, who proved to be an excellent liaison man to government offices in the Reich. He left for Salzburg on the same train as Schuschnigg. While Schuschnigg had his car taken off at Salzburg and spent the night there and went on by car to the Obersalzberg, Mühlmann continued on and got to Berchtesgaden. Keppler and he went to the Führer before Schuschnigg and were able to tell him everything. Schuschnigg arrived in the morning, was received, and experienced boundless surprise that the Führer took up the negotiations where they had been broken off without results the day before between Seyss and him. The Führer did not conduct the negotiations as Schuschnigg expected. He went the whole hog. Schuschnigg was finished off that time, in a manner one can hardly imagine. The Führer got hold of him, assaulted him, and shouted at him and reproached him for all the dirty tricks Schuschnigg had committed during the past years. Schuschnigg had become a heavy smoker. There was connection even with his bedroom. We knew about his way of life. Now he was smoking 50, now 60 cigarettes. Now, in the presence of the Führer, he was not allowed to smoke. Schuschnigg could not even smoke.

"Ribbentrop told me he really pitied Schuschnigg. He only stood at attention before the Führer, held his hands against the seams of his trousers and all he said was 'Yes, sir,' 'Jawohl.'"

Now, what about that? You say all these things in your speech and were they true when you said them? Right up to that point, Witness, you have read it with me. Did you say this or not, and was it true when you said it?

RAINER: The events as I have described them here are, as a whole, correct. Individual expressions which I read here are not mine. In that point this document has been supplemented by somebody else. Whether the events described here are correct in detail, is something I cannot say for certain because much of it did not happen in my presence.

MR. DODD: I just wanted to know if you said it; that is all. Very well, we will go on.

You also told them that Schmidt finally went to Ribbentrop and asked him to give Schuschnigg one cigarette and so they gave him

one. Let us go on quite a few pages to a more important matter. It is on Page 13.

THE PRESIDENT: Mr. Dodd, will you be able to finish tonight, because we were going to adjourn at a quarter to.

MR. DODD: Yes, I will. I shall need only 2 more minutes to finish. I do not think it takes much time. I just have one or two items in this speech.

[Turning to the witness.] You know in this speech you told your listeners about the day that Seyss-Inquart came to a meeting and told you that he had been bound by his word of honor not to talk about the plebiscite. You know what you told your listeners that day. You will find it on—well, you can find it, I can assure you it is in the text and it will save time if you believe me. It is on Page 13 of the English text. You say:

> "We asked Seyss: Is it true? Seyss said: I am bound by my word of honor not to speak, but we want to act as if it is true." "Diplomat that he was . . ."—was your observation— ". . . the matter was clear to us."

He let you know, did he not, that Schuschnigg had told him about the plebiscite. He let you know, did he not? Please, can you not answer my question without—you will not find the answer to that on that page.

RAINER: The description here coincides with my memory.

MR. DODD: *[Turning to the Tribunal.]* Just one last matter and I am not going to have many more questions for him.

You also told your listeners that in the night from Thursday, 10 March to Friday, 11 March, all Gauleiter were in Vienna waiting for information:

> "On 10 March we issued orders to the SA and SS, Lukesch and Kaltenbrunner, to call out, beginning Friday, half of the formations, and that the best men were to remain armed in their barracks in the event of a civil war," and so on.

Did you say that?

RAINER: With arms and in barracks? That cannot be right. The instructions at that time were, and it is unlikely that I recounted them otherwise, that half the strength should remain assembled at home, that is, in assembly areas. There is no question of barracks, and weapons we had almost none.

MR. DODD: You know, in this whole speech almost everything, except in more detail, that you wrote in your report to Bürckel, is contained. The truth of the matter is that you were telling, in both instances, what you believed to be the truth, is it not? That is the truth of the matter. When you made your report to Bürckel and

when you made the speech to the leaders and the members of the blood order, you were reporting what you thought were the facts, and what of course, you know now are still the facts.

RAINER: I cannot recognize this matter as being authentic.

MR. DODD: Well, I certainly do not have many more questions, My Lord.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 13 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-FOURTH DAY

Thursday, 13 June 1946

Morning Session

THE PRESIDENT: The Tribunal has considered the question of the time to be taken by counsel in their concluding speeches. The provisions of Article 18 of the Charter directing the Tribunal to confine the Trial strictly to an expeditious hearing must be observed, and counsel clearly could not be permitted to speak at any length they choose. Necessity dictates that there must be some limitation, or this already lengthy Trial might be prolonged beyond all reason.

The Tribunal understands that the Prosecution will voluntarily limit their concluding speeches to 3 days in all, and some voluntary limitation should be made by Counsel for the Defense. The evidence for the defendants has been fully heard in great detail, and what is now needed is not a detailed analysis of the evidence but a concise review of the main matters.

The Tribunal wishes to make clear that no admission will be inferred from failure to mention any particular matter in argument. On this view, in the opinion of the Tribunal, the speeches of the Counsel for the Defense—including the speech to be made on behalf of all the defendants on the submission of law—should be concluded in 14 days in all. This will allow the Defense double the time taken by the Prosecution, both in opening and in summing up. By mutual arrangement between counsel, these 14 days could be apportioned as they think fit; and the Tribunal would prefer that they make the apportionment rather than make the apportionment itself.

The Tribunal expects, therefore, that Counsel for the Defense will prepare their speeches in accordance with what I have said and will advise the Tribunal as soon as possible of the apportionment of time that they have made. If they find themselves unable to agree on this apportionment, the Tribunal will give further consideration to the matter.

The Tribunal desires also to point out to counsel—both for the Prosecution and for the Defense—that it will materially help the

Tribunal if counsel would submit translations of their speeches at the time they make them.

That is all.

DR. OTTO NELTE (Counsel for Defendant Keitel): Mr. President, the decision which you have just announced to us has surprised the Defense, since they have not been previously heard with reference to this question. This appears to us to be all the more regrettable since the decision is against the most elementary rights of the Defense, because it prevents us from stating in Court what, in this most important Trial, has to be said with regard to the defendants and the problems with which they are confronted.

At this moment we are not yet in any position to survey the entire material. If I were to state, without wishing to forestall the other defendants' counsel, the case of the Defendant Keitel as an example, you will understand that the material alone which has appeared after the cross-examination puts me in an extremely difficult position. I am sure that a large number of the other defendants' counsel will also share my opinion that these matters cannot be dealt with collectively. While every attempt should be made to deal comprehensively with these matters, nevertheless, in my opinion, the cases of the individual defendants should be dealt with separately.

Fourteen days appears to me a very short time. In practice, it is almost impossible to make a fair apportionment, that is, to deal properly with the individual questions.

Might I suggest, therefore, that the decision which you have just announced—I am not sure whether it was only a suggestion—should be reconsidered after consultation with the Defense. Without wanting to anticipate the argument which the whole Counsel for the Defense intends to offer, I wish, nevertheless, formally to raise objection now to the decision limiting the Defense beyond the limits of what is possible.

THE PRESIDENT: Do counsel either for the Prosecution or the Defense wish to make any other observations to the Tribunal upon this subject?

MR. DODD: Mr. President, I would like to state that I take exception to Dr. Nelte's argument. What I wish to say very briefly is that with respect to Dr. Nelte's argument that a restriction in time with respect to the final argument is a violation of a fundamental right of these defendants, I wanted to call the Tribunal's attention that in our country it is, I would say, rather common practice for our courts to restrict counsel in time in final argument, as the Tribunal has pointed out.

THE PRESIDENT: Does any other counsel wish to make any other observations?

DR. OTTO FREIHERR VON LÜDINGHAUSEN (Counsel for Defendant Von Neurath): Mr. President, to begin with, I should like to make some remarks regarding the limit imposed upon our time. If we are limited to 14 days, then that means approximately 4 hours per defendant for our final speeches. But in reality these 4 hours are not 4 hours, since, because of the technical arrangements in this courtroom, we are forced to speak much more slowly than we would speak in a direct final speech, in a free statement. That is to say, from the 4 hours left to us on an average, we must deduct the time which we lose through having to speak more slowly. In my opinion, 4 hours would in reality amount to only 3 hours.

Mr. President, I believe that if you consider these facts you will agree with us that in these 3 hours we cannot possibly do justice to all the material available for every defendant, and thus fulfill that purpose which the final address is intended to fulfill.

The main purpose of this Tribunal, which is unique in history, is to establish the truth; but we cannot establish the truth by merely making an arbitrary selection of individual actions. Our main task must be to show what led to these individual actions. Accordingly, it is for me in my capacity as defense counsel for the Defendant Von Neurath, who was the responsible leader of the foreign policy of the Reich until 1938, to show that all the actions of which my client is accused were logically and unavoidably the outcome of the circumstances as they developed. This sequence of historical events explains everything that happened up to the day when my client handed in his resignation. But I can make that clear only if I am able to present the different stages of development, at least in broad outline. Moreover, Gentlemen, if you take into consideration that I still have to deal with the activities of my client as a Reich Protector, which for legal reasons is not altogether as simple as it might appear, you will no doubt admit that I cannot possibly do that in a period which is tantamount to only 3 hours.

I want to say to the statement of the American prosecutor, that we are not before an American court here. I have just been trying to make inquiries about this, and there is no information to the effect that in international tribunals, such as, for instance, the Hague Courts, or the courts in Egypt, a limitation has ever been imposed upon the duration of the final speeches of the defense. That is why I beg to take into consideration that we are not before an American court here but that this is an international tribunal and that this International Tribunal goes far beyond anything that

has existed before. It also goes far beyond the task of any military tribunal in Germany which has up to now dealt with small particles of this tremendous complexity, and never have the military tribunals imposed a time limit upon the defense when making their final speeches.

Gentlemen, if you take all this into consideration, then I hope you will allow me to ask you once more to reconsider your decision and not have us give the impression that we are not able to do our duty in presenting our cases for our clients.

GENERAL R. A. RUDENKO (Chief Prosecutor for the U.S.S.R.): Gentlemen of the Tribunal, I will only add very little to what my colleague Mr. Dodd has already said. The penal code of our country admits the right of the tribunal to impose limitations upon both the prosecution and the defense in their final plea.

I believe that the argument of the Defense, to the effect that this decision of the Tribunal is putting limits on their rights and is unjust, is unfounded. In practice the Defense is already submitting evidence now in the case of their clients and has every opportunity to give a complete presentation. I believe, Gentlemen of the Tribunal, that justice does not consist in the endless conduct of the present Trial.

I therefore uphold the argument of Mr. Dodd and consider the decision of the Tribunal quite just.

DR. KUBUSCHOK: Mr. President, will you please permit me to make a brief statement? At no stage of the proceedings can the duration of a trial be foreseen.

At the beginning one cannot foresee the time required and therefore one cannot limit the time which the taking of evidence will require. Neither can the following stages of the proceedings, the length of the statements presented by the Defense, be forecast and cannot therefore be limited. The value of the Defense—and, after all, that is the only reason why a defense is included in these proceedings at all—is that a man who is given that professional task and who possesses the necessary qualities must be able to put before the Tribunal all the material which, after long hours of work and intimate conversations with his client, he has found worthy of presentation.

That must be done through such an intermediary; and to what extent he should state his case is something that he, as an expert, must be able to decide. Nobody participating in the proceedings, whether of the Tribunal or of the defendants' counsel, can even approximately foresee what might be necessary in this connection.

That is why I believe that no dates should be fixed for the case for the Prosecution or the hearing of evidence or the case

for the Defense. During the other stages of this Trial we have had to contend with the same difficulties. In limiting the proceedings as to time we can only be guided by what is relevant and expedient. Thus in this Court we have witnessed again and again how the President has steered the proceedings with skill and benevolence, always keeping them within the necessary limits. I cannot understand why the same procedure should not be applied to the final speeches, and I believe that the self-discipline which naturally every experienced counsel applies to himself, will keep the speeches within suitable limits. But I honestly believe that no one, with the exception of the immediate participant, and he probably only after all the evidence has been heard, can anticipate how much time will be required; and this, in my opinion, precludes the imposing of a time limit at this stage. If the statement made by the Tribunal should be considered as a suggestion to limit our speeches—and in this connection we are particularly grateful for the indication given as to the way the evidence should be handled—then by following the Tribunal's suggestion we shall most certainly be able to impose upon ourselves a limitation which will do justice to all parties.

THE PRESIDENT: I don't propose to go fully or at all into the argument which led the Tribunal to make the announcement which I made this morning, but I think it would be desirable for Counsel for the Defense, before they make any formal objection to that announcement, to study it. But I do desire to say on behalf of the Tribunal that that announcement was not made without consultation both with Counsel for the Prosecution and Counsel for the Defense and that was done in closed session; and we heard both Counsel for the Prosecution and counsel whom we understood to be representative counsel for the Defense, and they made the suggestion which they thought right to us at that time, and we fully considered it. We intimated to them that they should draw the attention of their brethren to what passed at that hearing in closed session. Therefore, it is entirely inaccurate to say, as Dr. Nelte did, that the announcement was made without hearing Counsel for the Defense.

I only desire to add to that that in the circumstances the Tribunal will give further consideration to the matter, but the suggestion made in the announcement was that the 14 days, which the Tribunal thought sufficient for the speeches for the defendants, should be apportioned voluntarily among counsel. Those 14 days are full days and will not be taken up at all by any argument on the organizations; and until the defendants' counsel have attempted to make that apportionment, it must be obviously impossible for them to know whether they will be able to make

their speeches, which are not speeches that are necessarily detailed examinations of the evidence but are arguments drawing the attention of the Tribunal to the main points which they desire to draw the attention of the Tribunal to. It will not be possible for them to know whether they can make their speeches satisfactorily within the 14 days. The Counsel for the Defense ought, therefore, to go into the matter together, as the Tribunal understood they were doing, and see whether they can satisfactorily present their speeches within that time. All the arguments which have been presented to us this morning were fully presented to us by Counsel for the Defense who appeared before us at the closed session, one of whom has addressed us this morning.

Now the Tribunal will go on with the hearing of the case.

[The witness Rainer resumed the stand.]

DR. STEINBAUER: Witness, in answer to the last question put by the American prosecutor yesterday you stated that you wrote your letter with a certain purpose, and I now ask you what that purpose was?

RAINER: Some time after the Anschluss there were hostile activities, intrigues against Dr. Seyss-Inquart and some other people. They came from dissatisfied radical elements in Austria and the Reich. They took advantage of Dr. Seyss-Inquart's hesitant attitude on 11 March, his clinging to the revolutionary line and to the principles of the two agreements between the two States, to accuse him of being a separatist or even worse...

DR. STEINBAUER: Perhaps, Witness, you can be a little more brief.

RAINER: These people seemed to be dangerous, because Bürckel and, I believe, Heydrich too, were behind them. I considered these attacks to be unfair and therefore I brought out certain facts and arguments and worded my report in such a way that the addressees would understand it and be calmed down.

DR. STEINBAUER: So that, if I have understood you correctly, in this letter you sought to stress the merits of the Party on the one hand, and to claim indulgence for Seyss-Inquart on the other hand?

RAINER: Yes. That is how I would express it.

DR. STEINBAUER: Now, my second question. In this letter you mentioned that Seyss-Inquart had taken a letter of ultimatum to Schuschnigg. Have you any recollection to the effect that he himself dictated it and had this letter written in his office?

RAINER: Dr. Steinbauer, you mean the letter of ultimatum written in the afternoon of 11 March?

DR. STEINBAUER: Yes, that is the one.

RAINER: I believe that that letter was written in his office and I also believe I participated in writing it.

DR. STEINBAUER: Then you go on to say, in the letter put to you by the prosecutor, that, through the collaboration of Dr. Jury and Dr. Leopold, Seyss-Inquart had become State Councillor. I ask you whether Dr. Jury and Dr. Leopold had any influence at all on Schuschnigg?

RAINER: No, that cannot have been the intention.

DR. STEINBAUER: The prosecutor, in support of his statement yesterday, submitted a second document. It was a speech which you had made as Gau speaker in Carinthia. Do you remember that?

RAINER: Yes.

DR. STEINBAUER: Was that a typical Gau speech? I mean, from the point of view of the propaganda of Goebbels? A speech which gives prominence to one's own merits and disparages one's opponents?

RAINER: I would not say that. It was a comradely meeting of the Old Guard on the occasion of the 11th of March. We drank beer and there was music and I described events rather like telling a story; I spoke for a very long time; in fact, it was the longest speech I ever made. I spoke more than 3 hours. I spoke quite freely and without any notes, and the shorthand record which is submitted here appears to me not to tally with my statements on every point.

DR. STEINBAUER: You mean, therefore, that it was more your intention to procure an effect upon the members of the Party than to write history?

RAINER: Yes, of course.

DR. STEINBAUER: Thank you very much. That is enough for me and I have no further questions.

DR. KUBUSCHOK: During the cross-examination yesterday it was mentioned that on one occasion you were with Von Papen at Garmisch. What did you talk about to Von Papen at the time, and how did that conversation come about at all?

RAINER: Dr. Seyss-Inquart and I had been invited to Garmisch by the Reich Sport Leader. The German-Austrian Alpine Club was to be discussed. Together with Von Tschammer we were watching the bobsled races at the Riesser Lake and there we met Von Papen. Herr Von Papen, Seyss-Inquart, and I then walked from there to Garmisch, and on the way we discussed the political situation and the . . .

THE PRESIDENT: Dr. Kubuschok, you don't need to give the details of it. I suppose the point of the question is that the conversation was not political. Is that the point of the question?

DR. KUBUSCHOK: The conversation was political, but it is a question of the type of political conversation it was.

Perhaps, Witness, you can confine yourself to the facts. You just said it was an accidental meeting. You were coming back from the bobsled track. What did you talk about?

RAINER: We talked about the situation in Austria, about the pacification of the country; and while we did not exhaust the subject, we did discuss other matters which interested us and which dealt with the immediate future.

DR. KUBUSCHOK: So that nothing was discussed which could not have been put before the Austrian public?

RAINER: No.

DR. KUBUSCHOK: Were these matters in keeping with the July Agreement?

RAINER: Yes, of course they were.

DR. KUBUSCHOK: But then, in the course of the speech which has already been mentioned, you said that you had been with others in Von Papen's apartment on the evening of 9 March 1938. I should like to know whether that was a prearranged meeting or whether it was a more or less chance meeting?

RAINER: It was just a casual meeting. I do not remember who arranged it. The conversation dealt, naturally, with the situation arising out of Schuschnigg's plan for the plebiscite, which was an entirely new and most surprising move, so that we had to think it over from every point of view and clarify it by discussion.

DR. KUBUSCHOK: What stand did Von Papen take during that conference?

RAINER: I remember that Von Papen, who just happened to be in Vienna that evening, acted in a reserved way. I think he considered that an affirmative vote would have met the situation perfectly.

DR. KUBUSCHOK: What reason had you for thinking he considered that an affirmative vote was plausible and necessary? Was it for practical reasons or was it due to the plebiscite which the Austrian Government had suggested?

RAINER: It was because of the plebiscite.

DR. KUBUSCHOK: Once again, my question is: Would the matters which were discussed have led one to believe it was a specially called conference, or rather was it a social gathering

during which political questions cropped up and this topical matter came up for discussion?

RAINER: It was a casual meeting which had been improvised because Von Papen's presence in Vienna coincided with the new political situation.

DR. KUBUSCHOK: Were any resolutions passed?

RAINER: No.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

DR. STEINBAUER: With the permission of the Tribunal I shall now call the witness Dr. Guido Schmidt.

[The witness Schmidt took the stand.]

THE PRESIDENT: Will you state your full name.

GUIDO SCHMIDT (Witness): Dr. Guido Schmidt.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Witness, what positions did you hold in the Austrian Republic?

SCHMIDT: I was a diplomat by profession. I was in the Austrian Foreign Service under Dr. Seipel and for about 6 years I was a member of the Austrian Legation in Paris. In 1936 I was recalled and assigned to the Austrian State for service with the diplomatic corps and the Foreign Office. In 1936 I became State Secretary under Dr. Schuschnigg, and later Foreign Minister.

I was a member of the Schuschnigg Government until his resignation by violence. From that time on, I had no political activity.

DR. STEINBAUER: Witness, what were the reasons in regard to foreign policy and economics which led to the Agreement of 11 July 1936?

SCHMIDT: At the beginning of 1936, the situation of Austria with regard to foreign policy had changed to Austria's disadvantage. After the events of July 1934, England, France, and Italy drew up a three-power declaration at Stresa concerning the maintenance of Austrian independence. Over and above the international obligations existing up to that time, the three powers now set up a new guarantee for the maintenance of Austria, the Stresa Front, which during the whole year of 1935 gave protection to Austria. The collapse of the Stresa Front, as a result of Mussolini's

Abyssinian enterprise, meant for Austria the loss of the only practical international guarantee, and for Federal Chancellor Schuschnigg the creation of a completely new situation. According to his conception of foreign policy, Austrian independence should rest not only on the shoulders of Italy, but if possible on other shoulders as well, that means of England and France. Then there were difficulties resulting from the developments of the situation in Europe from 7 March 1936, the day on which Adolf Hitler started his surprise tactics by occupying the Rhineland without encountering serious resistance from the Western Powers. This gave the Austrian Government cause for anxiety and fear lest some day the Austrian question as well might be solved by surprise or, as we later saw, by violence.

These are the reasons we must give if we are asked about the considerations on which the agreement was based. There was also the *rapprochement* between Rome and Berlin which began at this time and was due to the sanctions policy of the League of Nations. Austria, lying between Italy and Germany, had to expect that one day that Austrian-Italian friendship, which had existed since the time of Dollfuss, would fall victim to the closer relationship between Rome and Berlin.

For this reason and for other considerations, Dr. Schuschnigg sought a means to improve relations, that is, to restore relations, between Austria and the German Reich.

It would perhaps be useful in this connection to give a few of the guiding rules of Austria's foreign policy. The underlying idea was the maintenance of Austrian independence. Austrian foreign policy was furthermore based on the knowledge of the extremely difficult and delicate geographical situation of the country between two totalitarian states, at the crossroad of European ideologies. Therefore, it had to be the task of Austrian foreign policy to reach an understanding with her big neighbor, the German Reich. The foreign policy further had to be based on the determination to avoid everything that could lead to a conflict with the German Reich, to avoid everything that could antagonize the Reich, in order to prevent any violent action which, after 7 March, was to be feared.

There were reasons in practical politics which were decisive in this determination to restore relations with the German Reich, to the ethnographic area of which we belonged, relations which had been unnaturally interrupted. Apart from the reasons of foreign policy, there were also economic considerations. Because of Austria's economic constitution, which, although alive, was nevertheless extremely weak, the world economic crisis had affected Austria very seriously.

This can be understood only if we look back to the beginnings of this young state. From the very start, all Austria's neighbors had carried on an economic policy of egotism, of chauvinistic self-interest, and in no case had it been possible to reach really close co-operation of all the Danube countries. It is true that some separate agreements had been reached, such as the Rome Protocols; but the mutual distrust which all had brought from their former home, their common home, the Austrian Monarchy, continued to exist and obstructed any healthy development.

From 1931, the beginning of the world economic crisis, there were a number of attempts to relieve the situation. I will mention them one after the other. It begins with the attempt of the Government to create a customs union, which failed because of the resistance of the League of Nations. In 1932, there was an attempt by France to bring Austria and Hungary into the Little Entente and to reach economic co-operation here. Germany and Italy opposed this. England was also against it. In 1933, the economic crisis was aggravated by the internal struggle against National Socialism. That also had its effect on the economic life of Austria, because the economic life of Austria was also used as a weapon in the internal struggle.

THE PRESIDENT: This is undoubtedly interesting, but it has rather a remote bearing, perhaps, upon the questions which the Tribunal has to decide. I don't know whether the witness has dealt with it sufficiently for your purposes.

DR. STEINBAUER: Mr. President, in this presentation of the facts I wanted to show that from the economic and foreign policy point of view the situation was such that the role of the defendant was forced into the background; but we can continue now.

Witness, will you speak quite briefly.

SCHMIDT: All this led to the breaking off of economic relations with the German Reich, and now Austria's life and death struggle for economic existence entered upon a very serious phase. Because of these considerations, that is, for economic reasons, too, Federal Chancellor Schuschnigg attempted to reach an agreement with the German Reich and to restore economic relations which had been completely broken off, to remove the "1,000 mark blockade," to restore tourist traffic, to restore the flow of economic goods, to silence the complaints which were coming from the provinces in Austria because of the lack of a market for agricultural products, wood, grain, cattle and so forth. These were, generally speaking, the main considerations.

DR. STEINBAUER: Witness, I now ask you: Did Dr. Seyss-Inquart help in preparing or concluding this Agreement of July 1936?

SCHMIDT: No. The Chancellor worked with Glaise-Horstenau who represented the so-called National Opposition.

THE PRESIDENT: I am afraid there is a defect in the sound equipment, so we had better adjourn.

[A recess was taken.]

DR. STEINBAUER: Witness, in the spring of 1937 Seyss-Inquart entered politics, and presumably you met him then.

SCHMIDT: Yes, I met him first in the summer of 1937.

DR. STEINBAUER: Now, I shall go on, and I should like to ask you what reasons in domestic and foreign policy led to the well-known meeting between Adolf Hitler and Dr. Schuschnigg in Berchtesgaden.

SCHMIDT: This question calls for a detailed answer. I ask for permission to express myself in somewhat more detail.

By New Year 1938, the Austrian foreign policy situation had become worse. Italy had entered into an engagement in Spain in favor of Franco, which reduced still further her military and political influence in Central Europe. What we called "The Watch at the Brenner" had in effect ceased to exist, and Germany had more or less a free hand with regard to Austria.

THE PRESIDENT: Dr. Steinbauer, the Tribunal has common knowledge of the history of this time. It is not necessary, really, to go into it.

DR. STEINBAUER: Witness, I should like to ask you to tell me if you were present at the Obersalzberg at that time.

SCHMIDT: Yes, I should like to add, if I am to pass over the historical events—that is how I understood the question—that the Federal Chancellor accepted the invitation in order to prevent Austria's being reproached for having refused a peaceful attempt to clear up existing differences between Austria and the German Reich. The Chancellor was by no means optimistic, the more so because the existing differences of opinion were very great and also because of the personality of his partner in the talks. I recall that Schuschnigg, before leaving for this meeting, told me that he was of the opinion that instead of him it might have been better to send Professor Wagner-Jauregg, the greatest psychiatrist of Vienna; but he believed, in view of the exposed position of Austria, that he had to accept in order to forestall a *coup* and to gain time until the international situation should improve in Austria's favor.

Unfortunately, we were right. Our fear of a coming attack or of coming difficulties was justified. The fear that Austria would

be left entirely alone was also justified. The realization of the fact that we were completely deserted was perhaps one of the primary reasons which carried greatest weight with Schuschnigg together with the need of bridging over this difficult period and gaining time. Austria had to tread this path in the dark winter days from the end of 1937 until March 1938 without the hope of any immediate or prospective assistance. And then we came to Berchtesgaden.

DR. STEINBAUER: As Foreign Minister, did you inform the big powers of the events of Berchtesgaden?

SCHMIDT: Yes. Contrary to frequent press reports, the interested big powers were informed in detail both before and after Berchtesgaden. I gave all the material to the head of the political section to whom the diplomatic corps applied first. The Federal Chancellor himself and I gave detailed reports to the accredited foreign representatives in Vienna and drew their attention to the dangerous situation of the country.

THE PRESIDENT: Forgive my interrupting you. We don't want the details. You said you informed the foreign powers beforehand and after. That is sufficient.

DR. STEINBAUER: Now we return to the defendant. Did Dr. Seyss-Inquart take part in these talks?

SCHMIDT: What talks?

DR. STEINBAUER: The talks in Berchtesgaden.

SCHMIDT: No.

DR. STEINBAUER: He became Minister of the Interior and Police Minister, and went to see Hitler in Berlin. Did he report to Schuschnigg the substance of his first talk with Adolf Hitler?

SCHMIDT: I do not know, but I do know of individual statements by State Secretary Zernatto, the head of the Fatherland Front, from which I can conclude that a conversation between Minister Zernatto and Seyss-Inquart, at which this talk was mentioned, must have taken place.

DR. STEINBAUER: It can therefore be assumed that, through Zernatto, Schuschnigg also learned of it?

SCHMIDT: Yes, I assume so.

DR. STEINBAUER: Now we will pass over events until we come to March. Schuschnigg planned a plebiscite. Do you know whether Schuschnigg informed Seyss-Inquart of this and discussed it with him?

SCHMIDT: Yes, Seyss-Inquart was informed of it. I learned that an agreement between Seyss-Inquart and the Federal Chancellor was reached on or about 10 March. The Chancellor told me that

Seyss-Inquart had declared himself willing to speak on the radio in favor of the election.

DR. STEINBAUER: When Glaise-Horstenau reported that there was a threat of invasion, did you, in your capacity as Foreign Minister, inform the foreign powers of this?

SCHMIDT: Yes. I did not receive a direct report from Glaise-Horstenau. I learned of the critical situation only from the ultimatum which demanded the cancellation of the plebiscite planned by the Federal Chancellor on 13 March. From then on there was constant contact during 11 March with the diplomatic corps in Vienna and later, during the hours which followed, with our foreign representatives also.

DR. STEINBAUER: Then the demands of the German Reich followed closely upon one another. Especially, the demand was made that Schuschnigg should resign. The ministers were assembled, and a member of the Government is said to have told Seyss-Inquart the following: "We now see clearly that the Reich is putting an end to Austria. It would be best for Seyss-Inquart to take over the office of Chancellor so that the transition may at least be bearable."

Do you remember such a statement?

SCHMIDT: No. Only later did I hear of a statement by Minister Glaise-Horstenau which contained this request to Seyss-Inquart.

DR. STEINBAUER: Did you have the impression that with the farewell speech of Schuschnigg, the Fatherland Front which was directed by him had also collapsed?

SCHMIDT: I believe the question does not quite fit the situation. The resignation of the Chancellor was demanded by ultimatum; and finally the State itself was taken over, so that the Fatherland Front no longer existed. With the entry of the German troops, National Socialism had become a reality and developments showed that it did not permit the Fatherland Front to live any longer.

DR. STEINBAUER: Seyss-Inquart was then appointed Chancellor. He set up his Cabinet; and you, Witness, were proposed as Foreign Minister, is that correct?

SCHMIDT: That is correct. I refused. I was approached again, and I refused again, and I was asked to give my reasons. Seyss-Inquart told me that he intended to keep Austria independent as long as possible; but he was afraid that with his Government, which had a National Socialist majority, he would encounter difficulties in the West. Therefore, he wanted to retain my diplomatic experience and connections for the Government. He added

that he intended to create a broader platform for this Government by calling in positive Austrian representatives.

DR. STEINBAUER: Did you find the names of such positive Austrians on the list of ministers?

SCHMIDT: There were names of such men. I have been puzzled about it myself, but I cannot recall any individual names with any certainty.

DR. STEINBAUER: Do you know why another list of ministers was drawn up which was the final list?

SCHMIDT: In the evening State Secretary Keppler arrived from Berlin; and as I learned later, he rejected me, and others too, I believe. I think I can remember one name. I believe that he suggested at the request of Berlin that Weber should take over the Foreign Ministry. Thus this list was discarded and Seyss-Inquart no longer tried to persuade me to go back on my decision.

DR. STEINBAUER: Do you believe that Seyss-Inquart had the intention of keeping Austria independent, even under National Socialist leadership?

SCHMIDT: As a witness, I can only say what I know. Opinions are very difficult to express. I have stated what he told me.

DR. STEINBAUER: I have no further questions to put to this witness.

DR. KUBUSCHOK: According to a statement by the American Ambassador in Vienna at that time, Mr. Messersmith, Herr Von Papen, at the beginning of his activity in Vienna, is said to have stated that his real task in Vienna was the economic and political incorporation of southeast Europe into Germany, and that southeast Europe was the natural hinterland of Germany.

Did you, Witness, ever hear of such a statement?

SCHMIDT: No. In view of the close contact which I had already with Mr. Messersmith before my appointment as a member of the Government, and especially later, I would probably have heard of it. I assume, however, that no special significance was attached to this question at the time, because in first visits between diplomats, as a rule, a *tour d'horizon* is usually made and questions are discussed which interest both countries, that is, general political questions. Nor did I observe later that a southeast Europe policy was being carried on from the German Legation.

DR. KUBUSCHOK: According to Mr. Messersmith, Herr Von Papen is supposed to have said at that time that he was working to weaken and undermine the Austrian Government.

Did the witness Messersmith report such a statement by Herr Von Papen to you?

SCHMIDT: No.

DR. KUBUSCHOK: Did the Austrian Government consider it advisable and necessary to normalize relations with the Reich by an agreement in July 1936?

SCHMIDT: Yes. I have already explained the reasons for conducting a realistic policy which were of an economic nature and based on foreign policy.

DR. KUBUSCHOK: In these and in later negotiations, did the international political situation, particularly the settlement of the Party question, also have a part in deciding this?

SCHMIDT: Of course, it was the task of the Government to ease inner political tension. The Federal Chancellor had to try to find a way out of the difficult situation which he had inherited from Dollfuss by liquidating the inner political fronts.

DR. KUBUSCHOK: Do you believe that Herr Von Papen concluded the July 1936 Agreement with treacherous intent?

SCHMIDT: No, I have no reason to disbelieve that he considered this agreement a serious endeavor to create a *modus vivendi* between Austria and the Reich. The fact that it resulted in a *modus male vivendi* does not alter this.

DR. KUBUSCHOK: Did the Germans complain that after the Agreement of 11 July 1936 there was no essential change in the inner political course of the Austrian Government?

SCHMIDT: Yes, many reproaches were made; and thus we come to the last and the real cause of the conflict with the Reich. The struggle against National Socialism within the country in the interests of maintaining the independence of the country and, on the basis of the Agreement of 11 July, insuring co-operation with the German Reich, whose leaders were National Socialists—these were the two imperative demands which, after a time, the Austrian Government found to be irreconcilable. This also explains the difficulties encountered by all persons entrusted with carrying out this agreement in Vienna, including the German Minister.

DR. KUBUSCHOK: As a result of these conditions, particularly those arising out of the July Agreement, were questions of internal policy, such as questions of policy and personnel of the so-called National Opposition, the subject of discussions between the Federal Chancellor and Herr Von Papen?

SCHMIDT: The situation as just described shows that such discussions were unavoidable; and talks on the inner political situation also took place between the Chancellor and the German Minister, as well as with the Italian Minister, in a general way that is not unusual. I know of no diplomatic memoirs which do not contain

such entries. The Chancellor would never have tolerated interference of any kind. In questions of personnel Schuschnigg was especially reticent, because, if I may say so, he was afraid of "Trojan Horses."

That, more or less, represents the situation which was discussed in talks between the Chancellor and the German Minister.

DR. KUBUSCHOK: Did Herr Von Papen make it clear that he was opposed to the methods of the illegal Party?

SCHMIDT: Yes. According to the information received by the Government, Papen opposed the leaders of the illegal Party, that is, Leopold in particular. This was doubtless due to fundamental differences, differing political ideas and differing political methods, which Von Papen on the one hand and the leaders of the illegal Party on the other were determined to pursue.

DR. KUBUSCHOK: Did Herr Von Papen, on the basis of the July Agreement, ever adopt an aggressive attitude in Austrian foreign policy?

SCHMIDT: There existed between Austria and the Reich, not only in cultural and inner political relations, but also in the field of foreign policy, irreconcilable differences of opinion. I will only mention the demand of the Reich that Austria should leave the League of Nations, which we rejected by pointing to the fact that Austria, by reason of her geographical position and her history, had a continental mission, and also to the loans received from the League of Nations. A second point was Austria's attitude . . .

THE PRESIDENT: Is this at all answering the questions that you have put to him?

DR. KUBUSCHOK: He is introducing the answer to the question.

THE PRESIDENT: Try and get on with the answer to it, will you? Get the witness on to the answer rather than the introduction.

DR. KUBUSCHOK: I should like to know whether Herr Von Papen took advantage of the opportunities for an aggressive intervention in Austrian foreign policy in the individual cases mentioned by you.

SCHMIDT: I wanted to say that in spite of the deeply rooted differences this did not occur and that an ambassador with a more radical point of view would certainly have had the opportunity and the occasion to adopt a more severe attitude towards Austria. There was not a single case where we reached an agreement with the German Reich on a joint foreign policy. Von Papen did remind us of that, but that was all. As for aggression, or aggressive activities, I cannot say anything about this.

DR. KUBUSCHOK: On the contrary, did Herr Von Papen act on occasion as mediator? I would like to recall the Pinkafeld case.

SCHMIDT: The Pinkafeld flag incident is an example of Von Papen's activity as mediator. In itself it was a minor incident, but it led to threats of invasion by Hitler. Von Papen was called to Berlin and had a great deal of difficulty in calming down Hitler's fury, who, as I said, threatened to invade Austria.

THE PRESIDENT: Witness, if it is convenient to you, it would be more convenient to the Tribunal if you spoke a little faster.

SCHMIDT: He succeeded in settling the matter and there were no consequences.

DR. KUBUSCHOK: He settled the matter. Did Herr Von Papen speak to you about the reasons for his being recalled on 4 February 1938?

SCHMIDT: On the occasion of a visit on the 5th he expressed his astonishment—and I might say his anger—at his being recalled, which in his opinion and also in our opinion was due to the events of 4 February 1938, the dismissal of General Von Fritsch and of 30 other generals, and the dismissal of Von Neurath. He thought that Austria would not be unaffected either, especially in view of the man who had been proposed to succeed him. At that time, Bürckel or Consul General Kriebel was proposed. That was approximately what Von Papen said to me and I believe also to the Federal Chancellor.

DR. KUBUSCHOK: Then he believed and feared that his successor would adopt a more severe policy against Austria?

SCHMIDT: That conclusion was inevitable in view of the two persons just mentioned.

DR. KUBUSCHOK: Did Von Papen take part in the pressure exerted on you and Schuschnigg in the Berchtesgaden talks?

SCHMIDT: No, he did not.

DR. KUBUSCHOK: On the contrary, did he not, insofar as he had any opportunity of taking part in the negotiations, attempt to tone down Hitler's demands?

SCHMIDT: In view of the atmosphere of violence which prevailed and the program of demands which was presented, this was not difficult. I believe that he, like many others who were present, endeavored to restore calm and thus enable the negotiations to proceed in an atmosphere of reason.

DR. KUBUSCHOK: In the course of the negotiations, a number of concessions were made. Do you believe that Von Papen's attitude and his part in these negotiations had a restraining effect, and led to your obtaining these practical results?

SCHMIDT: His attitude on the whole was no doubt mediatory. One cannot speak of success at Berchtesgaden as far as the result is concerned; but that is not Von Papen's fault.

THE PRESIDENT: Dr. Kubuschok, do you think you will be able to finish in a few moments?

DR. KUBUSCHOK: Yes.

[Turning to the witness.] In order to answer my question I believe it would be better if you would not consider the final result of Berchtesgaden but rather the fact that Hitler had presented to you a very large program of demands going far beyond the final results, and if you would consider that actually some points which were of great importance to you were changed in the course of the negotiations.

SCHMIDT: As far as there was any help coming from the other side it came from Von Papen.

DR. KUBUSCHOK: Do you perhaps recall that the Hitler-Schuschnigg negotiations were especially violent because Hitler was trying to win Schuschnigg over to his German attitude and Von Papen came to Schuschnigg's aid and thereby put Schuschnigg in a better position to negotiate than at the beginning?

SCHMIDT: I was not present for the first hour or two of the talk. I cannot answer the question.

DR. KUBUSCHOK: My last question is this: Did Herr Von Papen, after 26 February, the day on which he took leave of the Austrian President, still carry on any official activity in Vienna?

SCHMIDT: No; the Vienna Embassy was administered by the Chargé d'Affaires, Embassy Counsellor Von Stein, who made the two official *démarches* of the Reich, on the afternoon of the 9th or the morning of the 10th, against the plebiscite planned by Schuschnigg. Von Stein, together with General Muff and State Secretary Keppler, also handed to the Austrian President the ultimatum demanding the resignation of Federal Chancellor Schuschnigg. This shows that Ambassador Von Papen was no longer active.

THE PRESIDENT: The Tribunal will recess until a quarter past two.

[The Tribunal recessed until 1415 hours.]

Afternoon Session

THE PRESIDENT: The Tribunal will not sit on Saturday.

DR. KUBUSCHOK: May I ask the indulgence of the Court and have permission to put one more question to witness Schmidt, a question which I had overlooked putting before the recess?

THE PRESIDENT: Yes.

DR. KUBUSCHOK: Witness, in November 1937, in the course of measures introduced against the illegal movements, certain materials were confiscated which were given the name "Tafs papers." Is Herr Von Papen referred to personally in these "Tafs papers"?

SCHMIDT: As far as I can recollect, a number of documents were discovered one after the other along with this material which we called the "Tafs plan." I think I can remember that in one of these documents Papen was mentioned. An attempt on the life of the German Ambassador to Vienna was to be the cause for internal disturbances in Austria, which were to be followed by repressive measures by the Government; and then later this was to lead to measures on the part of the German Reich. I cannot remember the details of that plan any more.

DR. KUBUSCHOK: Thank you.

DR. VON LÜDINGHAUSEN: With the permission of the Tribunal, I should now like to put a few questions to this witness.

Dr. Schmidt, when and on what occasion did you meet Herr Von Neurath?

SCHMIDT: I met Von Neurath in November 1937 in Berlin, where I paid him a visit in response to his invitation.

DR. VON LÜDINGHAUSEN: Can you tell us what attitude Von Neurath, as German Foreign Minister, had with regard to the relations of the German Reich with Austria? In particular, can you tell us his views regarding the Agreement of 11 July 1936? In this connection I should like to draw your attention to the fact that the Prosecution has alleged that, as it is expressed, Von Neurath concluded this agreement in a deceptive way.

SCHMIDT: During the few times I met Von Neurath he always expressed the view that he was in favor of an independent Austria, and together with this he wanted the closest possible co-operation in the foreign political, economic, and military spheres. Our negotiations always proceeded on the basis of the 11th of July Agreement, and differences of opinion arose only about the interpretation of the agreement. Neurath, on behalf of the German Government, held that the agreement should, if possible, work actively in his interest, while we, for defensive reasons, preferred

a different interpretation. At any rate, Neurath rejected means of violence and followed approximately the line of an Austria which was independent, but as close as possible to Germany.

DR. VON LÜDINGHAUSEN: What was Neurath's attitude toward the extreme factions of the Party in the Reich which, in practice, followed a policy of intervention in the internal affairs of Austria?

SCHMIDT: As I already mentioned, Neurath rejected methods of violence, and with them the methods of intervention, and also the methods of the illegal party in Austria. From conversations which I had with him I believe that I can state this unequivocally. This is also attested by his complete rejection of the activity of State Secretary Keppler and Veesenmeyer, who were certainly among the pioneers of the new development in the Southeast and primarily in Austria. The expressions which he used in that connection allow no doubt regarding his attitude.

DR. VON LÜDINGHAUSEN: Mr. President, I have no further questions.

DR. ALFRED SEIDL (Counsel for the Defendants Frank and Hess): Mr. President, may I have permission to represent my colleague Dr. Stahmer, who is absent, and put a few questions on behalf of Defendant Göring to the witness?

THE PRESIDENT: Yes.

DR. SEIDL: Witness, you have just stated that in November 1937 you paid an official visit to Berlin?

SCHMIDT: Yes.

DR. SEIDL: On that occasion, did you also talk to the then Field Marshal Göring?

SCHMIDT: Yes.

DR. SEIDL: Is it correct that even at that time Field Marshal Göring already told you that the Austrian problem could only be solved by the complete union of the two sister nations, that is to say, by the annexation of Austria to the Reich, and that he for his part would do everything to achieve that end?

SCHMIDT: It was not told me in those words. The former Reich Marshal probably did refer in an insistent way to close co-operation with Austria, but a demand for an Anschluss was not mentioned, as far as I can remember. As an illustration of that, I might say that at that time the events of 25 July 1934 were discussed. I expressed the view that the Agreement of July 1936 ought to put a final touch to that development, and Reich Marshal Göring stated that he had called the wire-puller of this affair to account—I believe

he mentioned Habicht—and had banished him to some obscure part of Germany. From this remark alone it appears, therefore, that there can have been no talk of an Anschluss. The former Reich Marshal welcomed the development caused by the 11th of July 1936, that is, that a full stop had been put to the then existing development, which one had to describe as a state of war, as it had been up to the 11th of July 1936.

DR. SEIDL: Is it correct that on the morning of the Anschluss, that is to say, the morning of 12 March 1938, Göring had you come to Berlin by airplane?

SCHMIDT: No. That was either Monday or Tuesday; it must have been the 15th or 16th.

DR. SEIDL: When you were in Berlin, did he put the question to you whether you yourself or Schuschnigg had asked for help from foreign powers, military help, on the day before the Anschluss?

SCHMIDT: I cannot remember having heard that question.

DR. SEIDL: You stated this morning that with the Anschluss National Socialism in Austria became a reality. I now ask you, was not National Socialism also a political reality in Austria even before the Anschluss?

SCHMIDT: Yes, certainly a political reality, but I am talking of a political reality in the sense of an organized power in the State.

THE PRESIDENT: I am afraid you are going a little too fast—well, I do not know what it was. Anyhow, you had better repeat it, because the interpreters do not seem to have it.

DR. SEIDL: The question was whether or not National Socialism in Austria had been a political reality even before the Anschluss, and I put this question with reference to the fact that the witness had said this morning that National Socialism did not become a reality in Austria until the German troops marched in.

SCHMIDT: By the term "political reality" I meant that National Socialism had then got the State power into its hands, because until then it represented a prohibited party, which of course after the agreement of February 12 was supposed to be drawn within the framework of the Fatherland Front for responsible co-operation in political affairs.

In other words, I wanted to show the basic change which came about for National Socialism with the arrival of the German troops.

DR. SEIDL: Now, one last question: After the Anschluss, did you not repeatedly tell the Reich Marshal that the Fatherland Front, on the occasion of the Anschluss, collapsed like a house of cards?

SCHMIDT: Yes; of course, I cannot remember individual statements, but the collapse of the Fatherland Front did naturally come about when the Chancellor resigned. The Fatherland Front was the gathering point of the resistance, and with 11 March the resistance collapsed.

DR. SEIDL: I have no further questions.

THE PRESIDENT: Does the Prosecution want to cross-examine?

MR. DODD: Dr. Schmidt, when, for the first time—if you know—did the Defendant Von Papen suggest to Chancellor Schuschnigg that he, Schuschnigg, have a meeting with Hitler?

SCHMIDT: Late in the autumn of 1937—it must have been November—Von Papen made the suggestion for such a meeting. These discussions did not, however, have any concrete results at the time. The official invitation was brought by Von Papen on or about 6 or 7 February, after he had returned from his visit to Hitler. I heard about the invitation on that day.

MR. DODD: Will you also tell us if you know whether or not Von Papen assured Schuschnigg that this meeting would be restricted to very well-defined points, and that it would concern itself only with matters that were agreed upon between Schuschnigg and Von Papen before the conference took place?

SCHMIDT: The Chancellor himself demanded exact wording for the agenda of the conference, that is, as a basic topic the 11th of July, the final removal of existing differences, and so on and so forth. That had been agreed between Von Papen and Schuschnigg.

MR. DODD: And did Von Papen assure Schuschnigg that the meeting would proceed favorably for Austria?

SCHMIDT: Assure him? No. But a declaration was given by Von Papen to the effect that the situation at the time was favorable. In this connection, Von Papen referred to the conditions such as had been created on 4 February. He believed then that Hitler would need a foreign political success, following these events, and so a certain success could be scored by the Chancellor for a low price.

MR. DODD: Of course, what I am trying to clear up here—and you can answer briefly, which, I think, will help us—is that: You and Schuschnigg had the impression that advantage would accrue to you and to Austria if you attended the meeting, is that not so?

SCHMIDT: I said earlier that the Chancellor was not optimistic. An improvement of the situation, therefore, was hardly expected, only a removal of the existing differences.

MR. DODD: Now, the night before you left for Berchtesgaden, you had a conversation with a man by the name of Hornbostel, is that so? The Minister.

SCHMIDT: Yes.

MR. DODD: And had you already had a conversation with Seyss-Inquart that same evening, you and Schuschnigg?

SCHMIDT: It is possible. During those days, repeated discussions took place.

MR. DODD: Well, maybe I can help you a little. Do you not recall that Zernatto and Seyss-Inquart were drawing up a memorandum of some sort about domestic questions, while you and, I believe, Hornbostel, or someone else, were preparing a paper or papers on international matters or matters of foreign policy? Does that help you any?

SCHMIDT: I could not understand.

MR. DODD: Well, I am referring to the time when you and some of your associates were preparing a memorandum of some sort about the foreign questions, and Zernatto and Seyss-Inquart were preparing papers about domestic affairs. You remember that, do you not?

SCHMIDT: Yes.

MR. DODD: Now, you were alarmed that night about Seyss-Inquart, were you not?

SCHMIDT: Yes.

MR. DODD: And why were you alarmed? What was the cause of your alarm? What did you fear at the hands of Seyss-Inquart?

SCHMIDT: The drafts which I saw before my departure and which had been worked out by Zernatto and Seyss-Inquart as a basis for a part of the political discussions appeared to me to be politically useless and impracticable. It was my impression that two men were at work here who perhaps enjoyed making up stories, but who did not do justice to the seriousness of the situation. There were expressions used, such as the difference between the Austrian National Socialist ideology and the National Socialist. But there is no difference. An Austrian National Socialist ideology can only be National Socialist. I criticized these matters in one of my talks.

MR. DODD: Will you agree that he was in some kind of combination with Hitler and that bad things would result from it for Austria? By "him" I mean Seyss-Inquart.

SCHMIDT: No, at that time I had no fear that there was a secret agreement between Hitler and Seyss-Inquart.

MR. DODD: Now, when you got to Berchtesgaden the next day, you found that much of the material that had been discussed

between Zernatto and yourself and Seyss-Inquart and Schuschnigg was the basis for Hitler's demands on Schuschnigg, is that not so?

SCHMIDT: Yes.

MR. DODD: And were you not convinced, at least that day, that Seyss-Inquart had been in communication with Hitler some time before you got to Berchtesgaden and had communicated to him these basic demands?

SCHMIDT: We merely had the impression that the basis for this conference was a draft which had been prepared by men who knew the conditions. Therefore, this list of demands was based on a large portion of the Zernatto-Seyss-Inquart agreements. The entire program of demands had not been made known to us previously.

MR. DODD: You and Schuschnigg represented Austria that day at Berchtesgaden?

SCHMIDT: Yes.

MR. DODD: Hitler, Von Papen, Von Ribbentrop, Keitel, Sperrle, and Reichenau, is that not so, were there for Germany?

SCHMIDT: Yes.

MR. DODD: You and Von Papen and Schuschnigg rode from the border together in the same railroad coach, did you, to Berchtesgaden?

SCHMIDT: Yes.

MR. DODD: And in the course of that...

SCHMIDT: Whether Papen was in the same coach I am not sure, but we were together on the way back.

MR. DODD: Well, he was on the train, was he not, whether he was in the same coach or not? Did he not get on the train at the border and ride on with you and Schuschnigg?

SCHMIDT: That I no longer know.

MR. DODD: Did he not meet you at the border?

SCHMIDT: He was waiting for us at the border.

MR. DODD: Perhaps I am confused, but what I am getting at is a particular conversation that you and Schuschnigg had with Von Papen, either right at the time you met him at the border, or in the course of your trip up to Berchtesgaden, when he told you that, "Oh, by the way, there are going to be a few generals up here. I hope you would not mind." Do you remember Von Papen saying that?

SCHMIDT: Well, generals were mentioned, yes. Schuschnigg had said—whether Keitel's name was mentioned, that I can no longer remember—that he would be there.

MR. DODD: Well, it was rather casually said, and you did not have any opportunity to object at all, did you? And up to that time you had not known there were to be military men there?

SCHMIDT: No, up to then we did not know.

MR. DODD: Now, you got to Berchtesgaden at what time of day? Early in the morning or midmorning? What time of the day?

SCHMIDT: In the course of the morning.

MR. DODD: Yes, and I wish you to tell the Tribunal, as well as you can, just what happened there that day. We have heard much testimony about this meeting at Berchtesgaden, and you are the first person on the stand who was actually there. I guess that is not so—Keitel was there also. Well, but at any rate, you participated in the discussion. How did the discussion start?

SCHMIDT: To begin with, the discussion started with a conversation between Hitler and Schuschnigg. That conversation took place privately, so that neither I nor the other gentlemen were present. Later, the gentlemen were called in individually, and then there were also conferences without Hitler with the then Foreign Minister Ribbentrop, during which the points of the program which had been submitted to us before were discussed. In the course of these conversations, individual demands were canceled.

MR. DODD: While Hitler and Schuschnigg were talking, who were you talking with, if you were talking with anybody, or what were you doing?

SCHMIDT: I was together with the other gentlemen whom you have already mentioned; some of us were in the large hall and some of us sat and waited in the anteroom right outside the room where the four-man conference was taking place.

MR. DODD: Did you talk to Von Ribbentrop, for example, while Schuschnigg was talking to Hitler? What was going on there? What were you talking about with Ribbentrop, if you were talking to him?

SCHMIDT: In the afternoon session we went through the list of demands with Ribbentrop—I did that partly on my own—and I succeeded in having certain points eliminated.

MR. DODD: Well, during the morning—I wish you would limit yourself to time here, so that we will know the exact sequence of events. During that morning session between Hitler and Schuschnigg were you just sitting around in an informal conversation or were you actually in conversation about Austria and Germany with Ribbentrop or with anybody else?

SCHMIDT: Not in the morning, no, because we, or at least I, had not yet seen the program, and the political talks could only take place on the basis of the demands presented by both sides.

MR. DODD: Well, there were recesses, were there not, so to speak, between the conferences, and during those recesses, did you not have a chance to talk to Schuschnigg? During those few intervals?

SCHMIDT: Yes, after about an hour Schuschnigg came out, gave me a summary of the situation, and discussed it with me.

MR. DODD: Tell us what he told you, right there at first hand.

SCHMIDT: He first of all described the atmosphere, the violence of the language used, and then said that the demands which had been presented had the character of an ultimatum.

MR. DODD: Try to tell us what he said if you remember. What did he say about the atmosphere, about the language used? That is what we want to know.

SCHMIDT: First of all, he began with the greeting he had received. He said that the Führer had accused him of not being a German, or that Austria was not following a German policy. It had always been so, even during the time of the Hapsburgs. He also held the Catholic element in Austria responsible for this. Austria was always a stumbling-block in the way of every national movement, and the same was true today. Then Hitler also mentioned the fact that Austria had not left the League of Nations. Then there were very serious arguments between Hitler and Schuschnigg personally, during which the Federal Chancellor felt that even he personally was being attacked badly. The details of this conference I cannot now remember, but the atmosphere, according to the Federal Chancellor's description, was extremely rough.

MR. DODD: You had luncheon there, I assume, at midday or shortly after?

SCHMIDT: After the conference, at or about 12:00 or 12:30, there was a joint luncheon. Here there was a perfectly normal tone of conversation again. In the meantime the tense feeling had subsided once more.

MR. DODD: Now, was Schuschnigg quite a heavy smoker?

SCHMIDT: You mean then, or when?

MR. DODD: I mean at that time, of course.

SCHMIDT: Of course, Schuschnigg was a heavy smoker.

MR. DODD: Now, we have heard that during that day of conferences, he was not permitted to smoke, until you pleaded with Ribbentrop to let him have one cigarette. Now, what about that? Is that so, or is that a story?

SCHMIDT: We were told at the time that there could be no smoking in Hitler's presence. That is true. Then I tried to find a chance for the Chancellor to be allowed to smoke one cigarette. Whether I asked Ribbentrop about it I cannot remember exactly, because that detail was not of any importance.

MR. DODD: Well, all right. Anyhow, at this conference did Schuschnigg tell you that Hitler demanded that Seyss-Inquart should be made Minister of Security of the Government?

SCHMIDT: That was one of the demands on the program.

MR. DODD: Made by Hitler?

SCHMIDT: Yes.

MR. DODD: Did he also demand that Glaise-Horstenau be named Minister for the Army?

SCHMIDT: That was the second position which was demanded.

MR. DODD: Did he also demand that certain expelled students from the universities in Austria be reinstated?

SCHMIDT: Yes, the expelled students were to be pardoned and admitted to the universities.

MR. DODD: And certain discharged officials were to be reinstated in their offices?

SCHMIDT: That too.

MR. DODD: Second, certain discharged members of the police forces of Austria were to be restored to their places as well?

SCHMIDT: That was included in the chapter "Acts of Reprieve." Accordingly, officials who had been discharged from executive positions were to be returned to status again.

MR. DODD: Were there also demands made with regard to currency exchange and customs unions?

SCHMIDT: Yes, economic demands of this kind were discussed. The expression customs union itself was not used. However, there were demands that came close to it.

MR. DODD: Now, as soon as Schuschnigg heard these demands, of course, you knew that the conference was exceeding the limitations that had been placed upon it by the agreement between Von Papen and Schuschnigg, did you not? You knew that right away?

SCHMIDT: Yes, the program was more far-reaching than we expected, that is quite true, but I do not know whether Von Papen knew the program beforehand. I assume not.

MR. DODD: Well, I did not ask you that, but that is all right, if you want to say something for Von Papen. My question is

however: Did you not immediately go to Von Papen or did you not go to Schuschnigg and say: "There, this is not what you told us we came here to do"? Did you not have any such conversation with him during one of these recesses?

SCHMIDT: Of course, statements were made to the effect that this program was more far-reaching than we had expected.

MR. DODD: What did Von Papen say?

SCHMIDT: We had the impression that Von Papen himself was unpleasantly affected by certain points.

MR. DODD: Did he not suggest, however, that you agree to Hitler's terms?

SCHMIDT: Papen certainly recommended that the final conditions be accepted, that is, after we had already obtained some of the concessions because in his opinion an agreement ought to be reached. The Federal Chancellor, too, gave his personal word, because he did not want to go away without a result being reached, so as not to endanger Austria's position.

MR. DODD: Now, also, Hitler agreed that he would dissolve the new National Socialist Party in Austria, did he not? Did he not assure you that day that he would do so?

SCHMIDT: Yes, indeed.

MR. DODD: That he would recall Dr. Tafs and Dr. Leopold, the leaders of the Nazi Party in Austria?

SCHMIDT: Yes.

MR. DODD: And also, you agreed to appoint Seyss-Inquart as Minister for Security?

SCHMIDT: The Chancellor agreed with this decision.

MR. DODD: And you agreed to take men by the names of, or men like, Fischböck and Wolf, into the Austrian press service?

SCHMIDT: They were to be admitted. Fischböck was to be in the Ministry of Commerce, and Wolf in the press section. Nothing was said about the form in which that was to take place.

MR. DODD: And you agreed also to try to absorb some of the National Socialists into the Fatherland Front, to absorb them into your own political group?

SCHMIDT: The expression "some of the Nazis into the Fatherland Front" does not meet the situation. It was the question of incorporating the National Opposition—which at that time was described as the Austrian National Socialist ideology—into the Fatherland Front, and so insure the co-operation of this entire group in the political life of Austria.

MR. DODD: All right; now, Hitler told you that you had until 15 December to accept his terms, did he not? I mean, 15 February.

SCHMIDT: Yes.

MR. DODD: And he told you that if you did not do so, he would use force?

SCHMIDT: The ultimatum was—yes, it was an ultimatum—to the effect that Hitler intended to march into Austria as early as February, and was still prepared to make one last attempt.

MR. DODD: And what about these generals, were they walking in and out while the conference was going on? Men like the Defendant Keitel?

SCHMIDT: The generals were called in several times.

MR. DODD: Were you and Schuschnigg frightened? Did you think at one time that you were to be taken either into custody or to be shot?

SCHMIDT: We were worried that possibly we might not be allowed to leave, yes; but that we might be shot, no.

MR. DODD: Well, do you remember Schuschnigg telling you, when on your way back to Vienna, that he was frightened when Keitel was called in, that Schuschnigg thought he was going to be shot, or something drastic was to be done to him, and you told Schuschnigg that you, too, were frightened at that time, that the end had come, or words to that effect?

SCHMIDT: No, I do not remember that conversation. There was never any talk about shooting, but as I have already said, we were just afraid. The Chancellor was also of that opinion that if the negotiations did not go well we might not get away.

MR. DODD: Very well. What was Von Papen doing while the generals were moving in and out? Did he see that as well as you?

SCHMIDT: After such a heated discussion it is quite difficult to say, after 8 years, what each individual was doing at the time.

MR. DODD: There were not too many of you there—six or eight. Were you pretty generally in a group?

SCHMIDT: There were continuous changes. We were not always in there together. Various combinations were certainly made.

MR. DODD: Let me put it to you this way: There was not any possibility of Von Papen failing to see the generals there that day, was there?

SCHMIDT: On that day he must have seen them when we were there.

MR. DODD: Von Ribbentrop told you that Hitler was in a very angry frame of mind, did he not?

SCHMIDT: Yes, we were all agreed on that.

MR. DODD: And he also urged that you, of course, accept the terms as the best thing for you and for Schuschnigg, did he not?

SCHMIDT: At any rate, Ribbentrop at the time did not take part in this pressure. He represented the German demands, too, yes, but not in an unpleasant or forceful way. I mentioned that to the Chancellor even at the time.

MR. DODD: Yes, this is what the situation was, was it not: Von Ribbentrop was playing the role of the nice man, while Hitler inside was playing the role of the horrid man, and you and Schuschnigg were being passed back and forth from one to another?

SCHMIDT: It was my impression, at the time, that Ribbentrop was not acquainted with the subject very well and that for that reason alone he had kept himself somewhat in the background.

MR. DODD: Yes, that is interesting, and it is not altogether news in this case; but in any event, is it not a fact that you were being played off, so to speak, as between the nice man Von Ribbentrop and the bad man Hitler?

SCHMIDT: It cannot be described like that. That was not the case. We had to negotiate the details with Ribbentrop. Hitler had stated that we should discuss the detail together with the experts.

MR. DODD: Well, could it be that you do not realize it yet? Are you sure that that was not the situation, or is it only that you have not realized it to this day?

SCHMIDT: About what?

MR. DODD: That situation that I suggested—that you were being maneuvered between the good man and the bad man.

SCHMIDT: No.

MR. DODD: Well, if you do not understand, I do not think we need to go on with it.

Now, how late did you stay there that day, and what time did you leave Berchtesgaden?

SCHMIDT: In the late hours of the evening. It must have been between 9 and 10, as far as I remember.

MR. DODD: And when you got back to Vienna, did you tell Seyss-Inquart about what had happened in Berchtesgaden?

SCHMIDT: First of all there was a conference between Zernatto and Seyss-Inquart in which Zernatto gave Seyss-Inquart an exact picture of the situation, since Zernatto had been informed by the Federal Chancellor as well as by myself. Later I joined in this

conversation. However, I had the impression that most of the description was already over and only details were still being mentioned.

MR. DODD: You told the Tribunal this morning that Seyss-Inquart told you that he wanted to retain some independence for Austria—some semblance of independence, anyway. Now, you did not believe that, did you, when he told you?

SCHMIDT: I cannot say either "yes" or "no" to that. I turned him down, and therefore I did not bother my head any more about Seyss-Inquart's political ideas because I did not intend to enter the Government. The demand had to be regarded as being meant seriously.

MR. DODD: Well, you used some particular language when you turned him down, did you not? What did you say about wanting to be truthful and decent?

SCHMIDT: I stated at that time that I belonged to Federal Chancellor Schuschnigg, that the laws of decency and loyalty still applied for me, and that therefore I would resign with him.

MR. DODD: Then did you not use the language, "I still believe in the rules of truth and decency"?

SCHMIDT: No, the laws regarding loyalty and decency were still applicable to me. That is what I said. I had been with Federal Chancellor Schuschnigg all the time, and I would also resign with him. In this connection you would have to know my relationship to the Chancellor; anyone who knows that knows what it means and that I could not have acted any differently.

MR. DODD: Now, I am not suggesting that. I am merely trying to show that you yourself used language in refusing Seyss-Inquart that indicated that you did not think he was truthful or faithful or decent. Is that not so?

SCHMIDT: I did not mean that by it. What I said then referred to myself, to my reason for refusing. There was indeed a difference, was there not, which arose from the fact that I was on terms of friendship with the Chancellor.

MR. DODD: Well, you know we have your testimony down there in Vienna where you testified under oath before the Court, and you remember telling the judge down there that Seyss-Inquart participated in the violent removal of Schuschnigg.

SCHMIDT: Yes, I stated that I could not belong to Seyss-Inquart's Government since it was, after all, partly responsible for the removal of Schuschnigg's Government. Since I was a friend of Schuschnigg, I could not participate in such a Government.

MR. DODD: Well, the point of it all is that, knowing Seyss-Inquart, and as he had been in the closest association with the Nazis, and having had your experience at Berchtesgaden, are you serious when you tell the Tribunal that you really thought—you really believed Seyss-Inquart when he said he wanted to maintain some independence for Austria?

SCHMIDT: I doubted that, too, at the time, just as I still doubt it today. What went on in his head I cannot say.

MR. DODD: I am not asking you for that. I am asking you what went on in your head.

Now, you had a conversation with the Defendant Von Papen about Seyss-Inquart not too many years ago, did you not?

SCHMIDT: Yes.

MR. DODD: Now, tell the Tribunal when and where that conversation took place.

SCHMIDT: I met Von Papen in Turkey—it must have been in the late autumn of 1943. Our conversation turned on the events of 11 March 1933. At the time Von Papen expressed himself in a severely critical way about the procedure at that time, about Seyss-Inquart, for the reason, he thought, that he had done nothing for the independence of Austria, and also because the procedure had not served German interests either. He wanted to express his criticism by this, and I had the impression that he was indeed against a violent solution, that is, against a solution by violence such as had occurred.

MR. DODD: Well, I want you particularly to tell the Tribunal just what it was that Von Papen said about Seyss-Inquart—and this was 1943, was it not, not 1940? It was when you were in Turkey and so was Von Papen? Or was he not?

SCHMIDT: Yes, he was.

MR. DODD: Now, maybe I can help you a little if you have forgotten. Did not Von Papen say that he would not shake hands with Seyss-Inquart?

SCHMIDT: He did say that. He said that he would—that he would have—it must have been some time after the Anschluss—refused to shake hands with him, and actually he referred to his behavior in 1938.

MR. DODD: And he said his behavior was utterly impossible?

Is that not the language that Von Papen used about Seyss-Inquart, or some of the language?

SCHMIDT: He did express himself in that way.

MR. DODD: What were the other things that he said? You told down there in Vienna that Von Papen used the harshest language imaginable in describing Seyss-Inquart and his conduct in March 1938. I think that is of some interest to the Tribunal, and I wish you would tell us exactly what it was. It is only 3 years ago, you know, that you and Von Papen had this conversation, and you have not told us very much about it.

SCHMIDT: He spoke in a very vehement way, passing judgment to the effect that Seyss had offered no protection to the Austrians and that he had done nothing to keep order in Austria, that is, to safeguard Austria's individuality and Austria's interests.

That was Papen's basic thought. His second thought was that the German interests had not been served by this either, by which he meant more or less that a quite justified interest of the German Reich had been made to look wrong in the eyes of the world because of the way in which it had been handled and that the foreign political interests of the Reich had been damaged thereby.

That was the principal thought in his conversation, and I think he made similar remarks during conversations with other people.

MR. DODD: All right. I am afraid I have passed on from Berchtesgaden and have omitted something that is probably of some importance.

Do you remember—some time, I guess not long before you broke up your session there—Hitler turning to Von Papen and saying, "Von Papen, you made it possible for me to be Chancellor, and I shall never forget it."

Did you hear Hitler say that to Von Papen that day at Berchtesgaden?

SCHMIDT: Yes, some such remark was made.

MR. DODD: What did Von Papen say?

SCHMIDT: That I can no longer tell you.

MR. DODD: He said, "Yes, my Führer," or something like that, did he not?

SCHMIDT: Yes, I assume so, because upon being addressed like that he had to give an answer.

MR. DODD: He certainly did not deny it, did he?

SCHMIDT: I do not assume he did, but I cannot remember the answer. I can only remember the question.

MR. DODD: The night in Vienna, when the SS and the SA people were climbing in the windows and doors of the Chancellery, did Seyss-Inquart do anything to have them excluded?

SCHMIDT: Not to my knowledge. I do not know; I was on the other side.

MR. DODD: Yes. It was a very tense situation, as we know. As a matter of fact, you were fearful that some harm would be done to Schuschnigg, were you not?

SCHMIDT: It was a very tense situation.

MR. DODD: How did you and Schuschnigg go home that night from the Chancellery?

SCHMIDT: We left in three cars—the Federal Chancellor in one, the President in the other, and I was in the third. The departure was escorted and organized and accompanied by SS men.

MR. DODD: Schuschnigg was not taken home in Seyss-Inquart's private automobile by Seyss-Inquart; he was taken home by the SS; is that so?

SCHMIDT: No, they left in a car together. I myself heard Seyss-Inquart say: "Then I will take him home." Whether it was the Federal Chancellor's car or Seyss-Inquart's car, I do not know, but at any rate they traveled in the same car.

MR. DODD: Escorted by the SS?

SCHMIDT: No, that was not the case. The SS, as far as—I do not know whether there were SS in the Chancellor's car. The SS only escorted us during the actual departure, that is, out of the house. There was nobody else in my car, or the President's car, after that.

MR. DODD: That is not what you told the court in Vienna. Down there you said, "Dr. Schuschnigg and I were driven home, escorted by the SS."

SCHMIDT: No, I said the SS escorted or conducted us during the departure from the Ballhaus Platz. There were about 40 SS men present who conducted the departure from there. Whether someone remained in the car after that, I do not know.

MR. DODD: All right. You probably can help us clear up one other question. When Seyss-Inquart made his radio speech, he was not actually a member of the Government, was he, or was he not?

SCHMIDT: There has been a lot of debate about that question. The Federal Chancellor had resigned in the afternoon session. At first, the President had not accepted the resignation, so therefore he was still Chancellor, and Seyss was still Minister. Whether the resignation was accepted later on I cannot say. Some are of the opinion that the President may, for all practical purposes, have entrusted the Federal Chancellor with the continuation of business, and Seyss-Inquart along with him. Others think that that would

not have happened. Only the head of the State himself can answer that question.

MR. DODD: As a former member of that Government, I want you to look at one document, and perhaps you can tell us whether or not you have seen it before.

It is Document 4015-PS. It becomes Exhibit USA-891.

That states that President Miklas had relieved not only Schuschnigg as the Federal Chancellor, but all other members of the Federal Government, as well as all secretaries of state, of their respective offices; and that is March 11.

SCHMIDT: Yes.

MR. DODD: That establishes, does it not, that Seyss-Inquart was not in office when he made this radio speech? That is our understanding of it. Is that so?

SCHMIDT: Well, I believe that I have had a lot of experience in this question, because I worked with the Federal President for a long time. Releases of this kind go . . .

MR. DODD: Just tell us exactly—is that true or not? Is our understanding correct?

SCHMIDT: It does not necessarily have to be interpreted in that way. Releases of this kind go out to the offices days later, because red tape will have its way, despite revolutions and in disregard of history. Therefore, it cannot be said when that was actually done. I assume that this release was not issued until long after 11 March.

MR. DODD: Did Seyss-Inquart use the term "Trojan Horse" quite often in the days preceding the events of 12 March? Was that a common expression of his?

SCHMIDT: He has stated a few times that he was not a "Trojan Horse leader," by which he wanted to express his loyalty, and wanted to explain that it was not his job to open the back doors to National Socialism.

MR. DODD: Did you ever think he protested too much?

SCHMIDT: Against what?

MR. DODD: About not being a Trojan Horse.

SCHMIDT: I did not hear that expression more than two or three times and it was used by Zernatto.

MR. DODD: That is all.

DR. STEINBAUER: I have only one brief question in connection with these last events. Witness, did Seyss-Inquart not also post men from the guards battalion outside the Minister's room?

SCHMIDT: Guards were present.

DR. STEINBAUER: At what time did Schuschnigg's actual resignation occur?

SCHMIDT: Well, it is difficult to say when that happened; at any rate when the new Government was formed. I assumed that it must have taken place roughly between 9 and 10 o'clock, since the Federal President had conducted serious negotiations at this time about the choice of a new Chancellor, and I think the former Federal Chancellor, Dr. Enders, was up for debate.

DR. STEINBAUER: I have no further questions for this witness.

THE PRESIDENT: The witness may retire.

[The witness left the stand.]

DR. STEINBAUER: With the permission of the Tribunal, I shall now call Chief of Police Dr. Skubl as witness.

[The witness Skubl took the stand.]

THE PRESIDENT: Will you state your full name, please?

MICHAEL SKUBL (Witness): Michael Skubl.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the absolute truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Witness, what offices did you hold in the Austrian Republic?

SKUBL: At the end I was Chief of Police in Vienna, and State Secretary for Matters of Public Security. Apart from that, I was the Inspector General of the Austrian executive authorities.

DR. STEINBAUER: Were you called to these offices at the suggestion of Dr. Dollfuss, in accordance with instructions he gave before he died?

SKUBL: Dr. Dollfuss had appointed me Inspector General of the Police the day before he was murdered on 24 July. I had enjoyed his full confidence.

DR. STEINBAUER: Can one, therefore, describe you as having had the confidence of his successor and friend, Dr. Schuschnigg?

SKUBL: Yes.

DR. STEINBAUER: When Seyss-Inquart became Minister, were you attached to him in your capacity as State Secretary and Inspector General at the same time?

SKUBL: Yes. When Seyss-Inquart was appointed Minister of the Interior and of Security, I was attached to him as State Secretary. Consequently, I was directly subordinate to him, whereas until that time I had been subordinated directly to the Federal Chancellor as Chief of Security.

DR. STEINBAUER: Were the police and the constabulary in your hands or in the hands of Seyss-Inquart, practically speaking?

SKUBL: Practically speaking, they had been in my hands.

DR. STEINBAUER: Did you have the particular task of combating illegal movements?

SKUBL: As Chief of Police and State Secretary for Matters of Public Security, one of my leading tasks was, of course, to combat illegal movements, and particularly National Socialist aggression.

DR. STEINBAUER: Did you observe any connection between Seyss-Inquart and the July 1934 Putsch? I mean, when Dollfuss was murdered.

SKUBL: No.

DR. STEINBAUER: What was his attitude in general towards National Socialism?

SKUBL: Dr. Seyss-Inquart admitted being a National Socialist. However, as far as I know, the so-called 120 or 150 percent National Socialists—that is to say, the leaders of the illegal movement—did not consider him a 100 percent National Socialist. He was, however, considered a very suitable person to be used as a piece on the chessboard of the National Socialist movement.

DR. STEINBAUER: If I understand you correctly, then, he was more a person who was led than a person who was leading?

SKUBL: It was my impression that he was more led than leading.

DR. STEINBAUER: Now, how did you work together with Seyss-Inquart in his capacity as Minister of the Interior?

SKUBL: There were no rifts in our understanding. It was a completely harmonious understanding.

DR. STEINBAUER: Did he exert any influence upon the police? Did he, for instance, bring National Socialists into the police corps?

SKUBL: No; that happened in no case.

DR. STEINBAUER: Did you have an opportunity to bypass the Minister and report directly to Federal Chancellor Schuschnigg?

SKUBL: Federal Chancellor Schuschnigg was the chief of the Government, and in that capacity he was naturally my highest superior. It was natural that I should make reports to the Federal

Chancellor regularly and upon special summons, and that I should also have received instructions from him in return.

DR. STEINBAUER: Soon after Dr. Seyss-Inquart was appointed Minister he went to visit Hitler in the Reich. Was that an official journey, or was it kept secret?

SKUBL: It was official.

DR. STEINBAUER: How did you come to that conclusion?

SKUBL: It had been announced. I knew about the journey; and Federal Chancellor Schuschnigg, so far as I know, also knew about the journey. It was also suggestive that in his capacity as liaison man between the Austrian Government and the Reich he must necessarily have an opportunity to speak to Hitler.

DR. STEINBAUER: Well then, when Seyss-Inquart came back, did he make a report on the contents of his discussions with the Führer?

SKUBL: Yes. Upon his return I met Seyss-Inquart at the station, and I asked him how the conferences with Hitler had gone off. Seyss-Inquart, still being fresh under the impression of the meeting and discussions, informed me of what he had stated to the Führer. I still remember the individual points exactly. Seyss-Inquart told the Reich Chancellor the following:

"Herr Reich Chancellor:

"1. I am an Austrian Minister, and as such I have taken an oath of allegiance to the Austrian Constitution. I have taken an oath, therefore, to Austria's autonomy and independence.

"2. I am a believer and an active Catholic, and therefore, I could not follow a course which might lead to a cultural battle.

"3. I come from a country where a totalitarian regime is out of the question."

DR. STEINBAUER: In spite of these views, did the Reich appoint a new Landesleiter for the illegal NSDAP?

SKUBL: Yes. As far as is known to me, on 21 February Klausner was appointed Landesleiter.

DR. STEINBAUER: When Dr. Schuschnigg announced the plebiscite, did he order any special security measures?

SKUBL: The order for the plebiscite naturally had the effect of a bombshell on the National Socialists, not only on the National Socialists in Austria, but also in the Reich. There was feverish activity, therefore, and preventive measures naturally had to be introduced.

This special activity can be explained by the fact that the National Socialists were afraid that in the event of a plebiscite they would suffer a great defeat, for the election slogans would have been accepted by the overwhelming majority of the Austrian population.

In this connection it is most interesting to draw your attention to an article which appeared on 11 March in the *Deutsch-Österreichische Tageszeitung,* in which the fear could be read that this plebiscite would open the way for a democratization of Austria, the formation of a people's front, and subsequently as a result of this, for bolshevization. From this one could recognize the consciousness that the Austrian National Socialists were a minority.

DR. STEINBAUER: Now we come to the memorable 11th of March 1938. When did you, as chief of the executive authorities, learn that German troops were marching in?

SKUBL: The 11th of March was, of course, an exceptionally exciting and eventful day. The feeling of time was completely lost during those hours. I know that in the evening hours a report was submitted to me showing that German troops had crossed the border, a report which could not be verified, however, but which was supplemented by the fact that unusually alarming troop movements were taking place on the Austrian border.

DR. STEINBAUER: Did not Seyss-Inquart, after Schuschnigg's resignation, say on the radio that in order to avoid chaos he was asking the population to remain quiet and orderly since he was still Minister of Security?

SKUBL: Seyss-Inquart did make that statement on the radio.

DR. STEINBAUER: Did you make any observations to the effect that before Schuschnigg's resignation he, Seyss-Inquart, gave instructions, sent telegrams, made telephone calls, or transmitted any other information regarding the seizure of power in the State by himself?

SKUBL: What I observed was that Seyss-Inquart's behavior until the critical moment was certainly very passive, and as I have already said earlier, he did in fact give more the impression of a man who was being led rather than a man who was leading, and indeed there were clear indications that he felt embarrassed.

DR. STEINBAUER: Did you not yourself, in the afternoon or evening, receive an offer from President Miklas to take over the Federal Chancellorship?

SKUBL: Federal Chancellor Dr. Schuschnigg first summoned me in the late afternoon, and he stated to me there had been an ultimatum from Germany—that is to say, from Hitler—to the effect

that he would no longer be satisfied with calling off the plebiscite, but was demanding Schuschnigg's resignation. Then Schuschnigg told me that he personally was ready to resign, but that he could not expect his staff to accept Seyss-Inquart's appointment as Federal Chancellor. He had a question to ask me, he said, and that was whether I was prepared to take over the Chancellor's office. He did this in agreement with the President who, a few moments later, made me the same offer.

I refused this offer, and I refused it because I considered that my appointment as Chancellor would, in Hitler's eyes, mean a declaration of war. As State Secretary for Matters of Public Security I was at the head of the defensive front against National Socialist aggression, and consequently was also in personal opposition to Hitler. Therefore, had I accepted the Chancellorship, this would have offered Hitler a welcome opportunity to have his troops march in. My acceptance of the Chancellorship, therefore, would have meant the beginning of the struggle against invasion, and such a struggle was probably hopeless, in view of the superiority of the German Armed Forces compared with the Austrian Armed Forces and Austrian executive personnel.

DR. STEINBAUER: Then Seyss-Inquart formed his Cabinet and took you over, too, as State Secretary. Why did you join that Ministry?

SKUBL: Seyss-Inquart proposed that I retain direction of matters of public security in the State Secretariat under his Government. I accepted the offer, having confidence that Seyss-Inquart would remember the conditions which he had stipulated with the Führer; that is, that he would be Federal Chancellor of an independent Austria. Apart from that, I was impelled by the desire and hope that I could keep the executive force in my hands, and that in the event that Seyss-Inquart had difficulties in representing the Austrian point of view, I could be of assistance to him. In other words, there should be an Austrian strong point, an Austrian enclave, in the Cabinet of the Austrian Federal Chancellor Seyss-Inquart.

DR. STEINBAUER: Did Seyss-Inquart still at that time speak in favor of Austrian independence?

SKUBL: He did not speak about it in detail. We took that for granted during the conference.

DR. STEINBAUER: When did you leave the Cabinet, and why?

SKUBL: During the night between March 11 and 12 I took over the task of going to the airfield to receive the Reichsführer SS Himmler, who had been announced from Berlin. On that occasion he did not arrive alone, but with a whole entourage. I can no

longer remember the names of the individuals, the number was too large; one name I understood very clearly, and that was the name of Meissner—Meissner, the Austrian naval officer who had joined the National Socialist uprising on 25 July, and who then, after the collapse of this uprising, had fled to the Reich and now had returned under Himmler's protection.

That to me was such an impossible situation that I made the firm decision not to have any more to do with all this, and so when I entered the Federal Chancellery at noon and received the surprising news from Glaise-Horstenau that Himmler had demanded my resignation, I answered, "He can have that very cheaply, because I had already decided on that in the early hours of the morning."

Subsequently I also informed Federal Chancellor Dr. Seyss-Inquart that I had had knowledge of Himmler's request, and that I had naturally decided to resign and asked him to take official notice of my resignation.

Upon this Seyss-Inquart replied, "It is true that Himmler has demanded your resignation, but I am not going to have anything dictated to me from outside. At the moment the situation is such that I think it is perhaps better for you to disappear for a few weeks, but then you must come back because I consider your co-operation important."

Naturally I declared that I would not do that. And the following day, in writing, I handed in my resignation as Chief of Police and State Secretary, after I had already on the evening of the 12th actually handed the affairs of the office over to Kaltenbrunner, who had been attached to me as a so-called political leader of the executive force.

DR. STEINBAUER: You were then confined and have not gone back to Vienna to this day?

SKUBL: First of all, I was held prisoner in my official apartment under SS and police guard and then, on 24 May, two officials of the Kassel Gestapo conducted me to a forced residence in Kassel, where I remained until my liberation by the Allies.

DR. STEINBAUER: I have no further questions of this witness, Mr. President, and perhaps this would be a suitable moment for a recess.

[A recess was taken.]

THE PRESIDENT: Do any other defendants' counsel want to ask any questions? The Prosecution?

MR. DODD: No questions, Mr. President.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

DR. STEINBAUER: Mr. President, may I now call the next witness, Dr. Friedrich Wimmer?

[The witness Wimmer took the stand.]

THE PRESIDENT: Will you state your full name, please?

FRIEDRICH WIMMER (Witness): Dr. Friedrich Wimmer.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Mr. President, I have finished the questions concerning Austria with the cross-examination of the witness Skubl and I shall now proceed to deal with the Netherlands.

Witness, were you, from July 1940 until May 1945, commissioner general for internal administration and justice in the Netherlands?

WIMMER: Yes.

DR. STEINBAUER: In that position did you have to deal with internal administration, justice, education, health, archives, museums, and the legislature?

WIMMER: Yes.

DR. STEINBAUER: Were you not also, at the same time, the deputy of the Reich Commissioner?

WIMMER: In exceptional cases, not otherwise.

DR. STEINBAUER: Did you also participate in the regular weekly official conferences of the commissioners general and the secretaries general with the Reich Commissioner?

WIMMER: Yes.

DR. STEINBAUER: Therefore, you were fully informed about events in the occupied Netherlands?

WIMMER: In general, yes.

DR. STEINBAUER: Now I ask you: Was the German Police a part of the offices of the RK, or the Reich Commissioner, or was it not rather independently subordinate to the Berlin central offices?

WIMMER: The German Police was a distinct office, separate from the Reich Commissioner's office, and was subordinate to the respective central offices in the Reich, both administratively and actually.

DR. STEINBAUER: That is to say, then, directly subordinate to the Reichsführer SS Himmler?

WIMMER: It was directly subordinate to the Reichsführer SS.

DR. STEINBAUER: Now, did the German Police, apart from the duties of the Regular and Security Police, have other special duties in the Netherlands?

WIMMER: They had a number of special duties in the Netherlands.

DR. STEINBAUER: Can you enumerate them?

WIMMER: I could not enumerate them completely but, for example, the combating of resistance movements in the Netherlands belonged exclusively to their sphere of activity; furthermore, the establishment, direction, and supervision of concentration camps belonged to their jurisdiction. Furthermore, the removal of Jews from the body of the Dutch nation belonged exclusively to their sphere of activity.

DR. STEINBAUER: Now, we come to internal administration. At the head of each of the former ministries there was a secretary general, that is to say, a Dutchman. Were these men persecuted in any way if they resigned?

WIMMER: No. The Reich Commissioner had told the Dutch secretaries general upon assuming office that if they should feel in any way embarrassed by the decrees or demands of the occupation authorities, they should apply to him without any fear and explain their difficulties to him, and that then, if so desired, he would let them resign from their office in such a manner that in no way would they ever have to fear any unpleasantness, of any kind whatsoever, and that they would also be assured of financial security and get their pensions.

DR. STEINBAUER: Did the Reich Commissioner also dismiss provincial commissioners?

WIMMER: He probably dismissed provincial commissioners also, but these changes also occurred—I can recall two cases—through the death of the provincial commissioner.

DR. STEINBAUER: What about the mayors?

WIMMER: As far as the appointment of mayors is concerned, in principle the same thing holds true as for all other officials in the Netherlands. The mayors in the Netherlands, contrary to the rule in many other nations, are not elected to office, but are civil servants in the true sense of the word. They were appointed by the Queen, even the mayors of the small communities. Since the head of the State was not present in the Netherlands, the Reich Commissioner was confronted with the necessity of regulating the appointment and dismissal of mayors and he made the regulations in such a way that insofar as the most important positions of the

State were concerned, he reserved for himself the right to make appointments, whereas he placed the appointments and dismissals of lesser importance in the hands of the Dutch Secretary General.

DR. STEINBAUER: So if you look back today and examine the question of how conditions were between 1940 and 1945 regarding the offices and civil servants in the Netherlands, what can you state in that respect?

WIMMER: I believe I may say that at the end of the period of German occupation the majority of the civil servants who had been in office when the German occupation force came into the Netherlands were still in office.

DR. STEINBAUER: Seyss-Inquart has been accused of dissolving the political parties. When and why did that take place?

WIMMER: The dissolution of the political parties was necessitated by the fact that some political parties displayed an attitude which, especially in critical times, the occupying power could not tolerate, apart from the fact that in an occupied territory it is generally difficult, if not impossible, to deal with political parties. Report after report came from our intelligence services about conspiracies of the most various kinds, and so the Reich Commissioner felt himself called upon to dissolve the parties. Nevertheless, he did not constitutionally remove the parties as such; the institution of parties, as such, still remained.

DR. STEINBAUER: It was suggested on the part of the Reich that the administration be reorganized and that the Netherlands be divided into five administrative districts instead of the traditional provinces. Did Seyss-Inquart do that?

WIMMER: The Reich Commissioner refused such suggestions or demands every time, and indeed he could do that all the more easily because the Dutch administration was on a high level and primarily because the Reich Commissioner expected, and on the basis of all kinds of assurances was able to expect, that the Dutch administration would co-operate with the occupying power.

DR. STEINBAUER: Now we also have a party which was very close to the National Socialists, the NSB, led by Mussert. Did this NSB party gain a leading influence in the administration or not?

WIMMER: The NSB, as a party, gained no influence at all in the administration. It was only that the occupying power, as was very natural, applied to the NSB and consulted it in certain cases, for no occupying power, in history, I believe, as well as in our day, is going to approach those parties or groups which assume a hostile attitude towards it.

DR. STEINBAUER: Did the leader of the NSB, Mussert, try to create a similar situation as existed in Norway under Quisling; that is, for him to become Prime Minister of the Netherlands?

WIMMER: Mussert did have that aim. He expressed it persistently, again and again, and I can say that by doing so he put the Reich Commissioner into disagreeable situations.

DR. STEINBAUER: Well, briefly, the Reich Commissioner . . .

WIMMER: The Reich Commissioner rejected this every time.

DR. STEINBAUER: Another question. Did Seyss-Inquart in any way exert pressure in religious matters on the population of the occupied territory?

WIMMER: No.

DR. STEINBAUER: Did he, in the field of education, issue decrees which reduced the rights of the Netherlands?

WIMMER: No.

DR. STEINBAUER: Did he not encourage the Dutch Red Cross, although there were cells of the illegal resistance movement in it?

WIMMER: He not only permitted the Red Cross to carry out its functions without hindrance, but, as you say, he even encouraged it. As far as the political attitude was concerned, he would have had plenty of reasons to interfere because broadcasting stations, illegal broadcasting stations, had been found under Red Cross control.

DR. STEINBAUER: They were resistance centers?

WIMMER: Yes.

DR. STEINBAUER: Furthermore, he has been accused of interfering with the existing legislation by issuing laws concerned with citizenship and also with marriage. You were in charge of the Justice Department. What can you say about that, quite briefly?

WIMMER: Acts of interference of that kind did occur. However, they occurred because they were necessary from the point of view of the conduct of the war and for the Armed Forces in particular for, to mention the question of citizenship, those Dutchmen who had entered the German Army wanted to have the assurance of also obtaining German citizenship. The Reich Commissioner, however, who was of the opinion that by acquiring German citizenship they should not incur any disadvantage in Holland, decreed—and this can be found in the corresponding decree—that these Dutchmen who acquired German citizenship should retain their Dutch citizenship, so that by so doing they would not be alienated from their people and their nation.

So far as marriage laws are concerned, the necessity arose that if soldiers, in particular, wanted to marry Dutch girls, the parents'

approval of the marriage was not asked, and not for political reasons. This approval was of some importance in that connection because the parents, contrary to the rule in many other nations, retained this right of approval until, I believe, the thirtieth year of the daughter concerned.

DR. STEINBAUER: Now I come to another chapter. That is the question of the so-called summary courts-martial (Standgericht). Will you tell us how these courts-martial were organized and how long and when they were in session?

WIMMER: The creation of courts-martial was seen as a necessity after a general strike had broken out in Amsterdam and we wanted to have a legal basis for future cases so as to prevent future strikes as far as possible, that is, to be able to combat them effectively after they had broken out on the basis of the proper law.

How these courts-martial were organized and when they had to function is exactly set down in the corresponding decree of the Reich Commissioner. However, if I am to answer your specific question here about the composition of these summary courts-martial, I can in any case only say from memory that the president of these courts was a judge, and moreover a judge who fulfilled all the requirements which a judge in the German Reich had to fulfill.

DR. STEINBAUER: Well, that is the essential point, and if I understand you correctly, before these courts became police courts a judicial functionary was president of these courts-martial. Is that correct?

WIMMER: Yes.

DR. STEINBAUER: Is it known to you whether Seyss-Inquart had so-called collective fines imposed on certain cities and communities?

WIMMER: The Reich Commissioner actually imposed such collective fines. The largest which was imposed, I believe, was the one which was imposed once on Amsterdam on the occasion of the general strike which I have already mentioned. The fines were decreed in accordance with established procedure on the basis of existing decrees, and they were proclaimed in an official decree by the police.

DR. STEINBAUER: If I understand you correctly, therefore, these collective fines—you mentioned the words "general strike"—were imposed when actions of a large community were involved, and not actions by individuals.

WIMMER: The collective fines were imposed in cases of violations which were charged to a fairly large portion of the community in question.

DR. STEINBAUER: I believe we can conclude that chapter. However, you did not tell me how long these so-called police courts-martial were in session.

WIMMER: The police courts-martial were in session as long as police martial law was in force. That was 2 weeks. Moreover, that was the only time that martial law had been imposed in Holland by the Reich Commissioner, that is, if you do not count the state of emergency that was declared after the invasion as such.

DR. STEINBAUER: Now I come to one of the most severe accusations brought against my client. That is the accusation that he had hostages shot illegally and contrary to international law, or participated in their execution.

With the permission of the Tribunal I submit two statements to you which were put to my client yesterday by the Prosecution. One is a statement by General of the Air Force Christiansen, as a defendant, dated 20 February 1946, and the other one is also an interrogation of a defendant, a higher police official, Dr. Schöngarth. It is F-886.

Will you please look at it and tell me what you know about these questions. Take your time—I remind you of your oath—and answer these questions as far as you can do it in good faith.

Have you read it?

WIMMER: No, not yet.

DR. STEINBAUER: Witness, I will help you. Are you through?

WIMMER: No, I am not through yet, but please go ahead.

DR. STEINBAUER: Do you know that hostages were shot in August 1942, on the occasion of an act of sabotage in Rotterdam?

WIMMER: Yes.

DR. STEINBAUER: Why were these hostages shot? On whose orders?

WIMMER: It is well known what the Rotterdam incident was all about. It was an attempt to blow up an Armed Forces leave train. In this affair, the Armed Forces applied to the Reich Commissioner and therefore . . .

THE PRESIDENT: That is not an answer to the question. The question was: Who gave the order?

WIMMER: The order for what?

DR. STEINBAUER: For shooting the hostages.

WIMMER: The order for the execution was, I believe, given by the Police.

DR. STEINBAUER: What did the Reich Commissioner have to do with it? You have read here how Christiansen accuses him in that connection.

WIMMER: The Armed Forces applied to the Reich Commissioner, because it was customary in fairly important matters for the two offices, that is, the commander of the Armed Forces and the Reich Commissioner, to get together and discuss these things. I recall that the commander of the Armed Forces appeared in a very determined manner and demanded that an example should be made so that such cases might be prevented in the future as far as possible. It was stated on the part of the Armed Forces that they considered hardly any other means possible than the shooting of a considerable number of hostages.

I no longer recall the figure very exactly today, but as far as I do remember it was about 50. I also recall that it was stated on the part of the Armed Forces that they could dispense with such a selection of hostages if the assurance could be given by the Police that on the basis of some sort of material which the Police had in their possession there was a chance that the perpetrators might be found and brought to punishment by a German court, that is to say, by the court of the Armed Forces.

On the part of the Armed Forces it was also pointed out that at the time resistance in the Netherlands was beginning to develop in increasing measure, and that this was finding expression in an increase in sabotage and other acts hostile to the occupation forces. I also recall that it was pointed out that if the Armed Forces and the Police had been present in larger numbers than was actually the case, it would perhaps not have been necessary to take a severe step of that kind. The forces at that time at the Army's disposal in the Netherlands were extremely small and in case of an increase in the resistance movement the position of the Armed Forces in the Netherlands might have been seriously endangered.

DR. STEINBAUER: Witness, I shall ask you several questions so that we can go ahead.

You have stated that the commander of the Armed Forces came and reported that in view of this outrage he would have to shoot some hostages.

WIMMER: Yes.

DR. STEINBAUER: Is it known to you that there was a Reich decree stating that saboteurs in the occupied western territory should not be tried by the courts but turned over to the Police? Can you remember that?

WIMMER: I do not think that was the case at this particular time, especially if you refer to the so-called "Night and Fog Decree"

which, to my recollection, is of a later date. I remember very clearly that an order was mentioned at that time, but I believe this order was one which applied exclusively to the military sector, so I do not know the wording of that order.

DR. STEINBAUER: Is it known to you that the Reich Commissioner used his influence to see that instead of the 50 you mentioned—in reality, it was only 25 hostages—the number was reduced to 5?

WIMMER: That is known to me.

DR. STEINBAUER: And that he also succeeded in having this done?

WIMMER: And that he succeeded.

DR. STEINBAUER: And that he particularly succeeded in having fathers of families excluded?

WIMMER: Yes, indeed.

DR. STEINBAUER: That concluded one case. There is another case which has been presented to you. That is the case of the attempt made on the life of the Higher SS and Police Leader Rauter when, in fact, more than 150 persons were shot as hostages. Have you finished reading that?

WIMMER: Partly.

DR. STEINBAUER: Please read it all then.

THE PRESIDENT: Dr. Steinbauer, why is it necessary for the witness to read the whole document? You can put the facts to him.

DR. STEINBAUER: Yes.

Witness, at that time it was demanded that as a reprisal for the attempt on the Police and SS Leader hostages should be shot?

WIMMER: Yes.

DR. STEINBAUER: Who ordered that and who carried it out?

WIMMER: I know of the case because—that is, I know of it from the report of Brigadeführer Schöngarth, who was at that time the Chief of the Security Police. He had applied to me to find out what his proper title was, after Rauter had become incapacitated for duty and he had to sign a proclamation and in so doing add his official title. On that occasion he told me this story and he also told me that he had gotten in touch with Berlin, to find out what they would consider necessary as reprisals for the attempt on Rauter. Berlin wanted a considerable number of hostages shot. He mentioned a figure to me which was something like 500, at any rate, not less than 500, but rather more than 500. Then he also

told me that he had talked to the Reich Commissioner and told him about this wish on the part of Berlin.

DR. STEINBAUER: Would you be more specific please; Berlin is large and had various Reich offices.

WIMMER: That was the Reichsführer SS, of course; it was quite clear that where one of the highest functionaries in the sphere of the Police and SS was concerned one had to approach the Reichsführer SS personally, and not only his office. He also told me he reported it to the Reich Commissioner, and that the Reich Commissioner, who as such was not authorized to deal with that matter, had asked him to tell the Reichsführer SS that he asked and advised him to refrain from carrying out such a large number of executions. Thereupon—naturally everything was done only by telephone—the Reichsführer agreed to reduce the number and I believe that in the end, on the basis of several telephone conversations back and forth, a number of about 200 or 150—I no longer know it exactly today—was decided upon.

I am convinced that if this advice and this request and these representations had not been offered by the Reich Commissioner through Schöngarth, the number originally demanded by Berlin would have lost their lives, so that one can say with full right that in this case the Reich Commissioner saved the lives of several hundred Netherlanders.

DR. STEINBAUER: Were the people who were actually shot collected at random in the streets or were they people who had already been officially condemned?

WIMMER: Of course, on this point, I can only report what Brigadeführer Schöngarth told me at that time during the conference. Indeed I have no reason to assume that he did not tell me the truth. He informed me that only such persons were considered who had already been condemned, so that it was only a question of advancing the time of the execution, and if the number should not suffice, then possibly others might be selected who in any case were already in prison and would certainly be sentenced to death.

DR. STEINBAUER: I believe I can conclude this chapter by asking you what happened to the hostages who were sent as such to Buchenwald by way of a so-called Dutch East Indian reprisal.

WIMMER: After some time, I no longer remember just how long, when complaints were received about their treatment, a large number of these hostages, or perhaps all of them, were brought back into the Netherlands and a very large number of them were released; not all together and at once, as I remember, but a few at a time.

DR. STEINBAUER: A small town, Putten, was destroyed because of serious acts of sabotage; was this ordered by the Reich Commissioner or someone else?

WIMMER: Since it was a purely military affair, just like the Rotterdam incident, where a plot was directed against the Armed Forces the incident was handled by the Armed Forces. The order was given by the commander of the Armed Forces and if I remember correctly, the Reich Commissioner—in any case, I—only learned about the incident after the execution had taken place.

DR. STEINBAUER: Now I pass over to the next chapter, and that is the combating of so-called enemies of the State.

Yesterday it was mentioned that the property of the Freemasons and Jehovah's Witnesses was confiscated. I should like to ask you, so that there may be no mistake, whether it was only the property of the organizations which was claimed, or was it also the property of the individual members? And so, taking the Freemasons as an example, was the property of the individual Freemason claimed as well as the property of the lodges?

WIMMER: In all these cases property that belonged to organizations was demanded, never that belonging to individuals. If there were individual cases where this happened, then these were abuses by individuals, but I cannot recall any such abuses.

DR. STEINBAUER: The Dutch Jews were also counted among the so-called enemies of the State. Who was responsible for handling the Jewish question in the Netherlands—you have really already told me that.

WIMMER: From the very beginning, the Police laid claim to the handling of the Jews, to jurisdiction over the treatment of the Jews, as a matter of fundamental principle.

DR. STEINBAUER: Now, we have an entire list of decrees here which bear the name of Seyss-Inquart and which indicate encroachments on the right of the Jews. Can you remember when the legislation against the Jews was introduced and in what form?

WIMMER: The development was briefly more or less as follows: Seyss-Inquart was opposed to the entire idea of taking up the Jewish question at all in the Netherlands, and in one of the Reich Commissioner's first conferences it was ordered that this question was not to be dealt with.

After a certain time—it may have been a few months—the Reich Commissioner informed us that he had received an order from Berlin to take up the Jewish problem because Jews had participated in a relatively large number in various movements and actions in the Netherlands which at that time, indeed, could only be characterized essentially as conspiracies.

Apart from that, one had to expect that if the war should last a fairly long time, the Jews who naturally because of the treatment they had undergone were not, and could not be, friends of the Germans, might become dangerous, and, therefore, that they should be considered as enemies—if not in the formal sense of the word, at least, practically so.

The Reich Commissioner began to carry out this order with much hesitation, although in the official conference he pointed out that he could not help doing so because he could not assume such a responsibility.

So far as I remember, this can be ascertained immediately from the Reich Commissioner's ordinance bulletin. At first, steps were taken to register the property of the Jews, then to prevent German maidservants from being in Jewish households; the Police requested that especially, because naturally all kind of information could be carried back and forth in this way. Then, when Berlin became more insistent in that question, the Reich Commissioner finally decided to decree and regulate a registration of all Jews by ordinance. It was pointed out particularly that we would at least have to know where the Jews were, because only in this way could the proper Security Police control and supervision be made possible.

In themselves those were measures which were far behind those which were already being carried out in the Reich at that time.

Then more pressure was exerted; I do not know whether it was perhaps Heydrich who did this at that time, whether he was already in the Netherlands at that time—I never saw him. I know only that he visited the Reich Commissioner in the Netherlands at least twice.

At any rate, in the course of the year 1941 and particularly in 1942, a comprehensive treatment of the question was urged. At first the Reich Commissioner still believed that he could meet these demands by bringing the Jews in the Netherlands together in one place where they could be more easily supervised, and therefore the idea arose that in Amsterdam one, two, or three districts of the city might be used to house the Jews there, which was also connected with the necessity of resettling a part or a considerable number of non-Jewish Netherlanders because there was not yet a completely separate Jewish quarter at that time. The non-Jewish Dutch did not live completely apart from them.

THE PRESIDENT: All this evidence that the witness is giving is all in the decree and has already been given by the defendant, has it not? What is the difference?

DR. STEINBAUER: Yes.

THE PRESIDENT: What is the point of it?

DR. STEINBAUER: Mr. President, I wanted to say only one thing, and that is that on such an important question I wanted to have confirmation briefly by the witness.

WIMMER: I have not much more to say.

DR. STEINBAUER: All right, I shall now summarize. Is it true that one wanted to put the Jews together in a ghetto in Amsterdam?

WIMMER: Yes.

DR. STEINBAUER: Is it true that Heydrich demanded the evacuation of the Jews?

WIMMER: Yes.

DR. STEINBAUER: Is it true that the Reich Commissioner tried, insofar as was possible under existing conditions, to use more humane methods in this deportation of the Jews?

WIMMER: Yes.

DR. STEINBAUER: I believe that I have now finished that chapter, too.

There were also concentration camps in the Netherlands. Is it known to you that Seyss-Inquart had these camps inspected by judicial commissions and corrected abuses found there?

WIMMER: Yes. Not only in concentration camps, but in camps of this kind in general.

DR. STEINBAUER: At the end of 1944 and early in 1945 there was a large-scale operation to deport all the men in Holland able to bear arms. Was that operation directed by the Reich Commissioner or by a different office?

WIMMER: That was an operation by the Reich, primarily an operation by the Armed Forces.

DR. STEINBAUER: Why did that operation take place?

WIMMER: It took place because during those critical times there were objections to the fact that men who were able to bear arms remained in Holland. First, because a large number of former prisoners of war who were released by order of the Führer in 1940 were later on mostly brought back to the Netherlands and a part of them remained there. Secondly, the resistance movements increased greatly during that time, and so it was stated that, from the military point of view, the responsibility of leaving those people able to bear arms in the Netherlands could not be assumed.

DR. STEINBAUER: Did the Reich Commissioner, in order to moderate that operation, issue so-called "release certificates" (Freistellungsscheine)?

WIMMER: Yes.

DR. STEINBAUER: Did not a part escape this operation by way of the Allocation of Labor?

WIMMER: As far as I know, yes; but I have no detailed knowledge of it.

DR. STEINBAUER: Do you know what happened to the diamonds confiscated after the battle of Arnhem?

WIMMER: These diamonds were placed in safety in Arnhem, during artillery fire, by a German office, the Economic Testing Office I believe, and then after some time they were taken to Berlin, from where, as indeed I learned in Holland, after the surrender they were brought back to Amsterdam again.

DR. STEINBAUER: How was the financial economy in the administration? Was the tax money used sparingly, or was a very lax management displayed?

WIMMER: I am not really competent in this field. The Commissioner General for Finance and Economy could say much more about that and with much greater authority than I can, but so far as my impressions went, I may say . . .

THE PRESIDENT: If he is not competent to speak about it, I do not see why he should speak about it.

DR. STEINBAUER: Mr. President, the witness Fischböck cannot be found. However, as a deputy of the Reich Commissioner, this witness must know something about the general features of it. I will ask him for details.

Did the Reich Commissioner save fairly large sums of money in his budget and deposit them in a special fund?

WIMMER: Yes.

DR. STEINBAUER: You know nothing about foreign currency restrictions, apparently?

WIMMER: No.

DR. STEINBAUER: How were raw materials, manufactured items, and foodstuffs requisitioned in the civilian branch of the administration?

WIMMER: It was regulated by an ordinance in the Reich Commissioner's ordinance bulletin and can be seen there. As a matter of principle, the requisitions were sent from the Reich to the Reich Commissioner and the Reich Commissioner passed them on to the Dutch offices concerned, which then carried out those requisitions themselves.

DR. STEINBAUER: So it was not the German offices, but the Dutch offices headed by the Dutch secretaries general?

WIMMER: Yes. They also were authorized to do this by a special decree.

DR. STEINBAUER: Did the Reich Commissioner or his offices take anything from the large museums?

WIMMER: I did not quite understand that. From where?

DR. STEINBAUER: From the public museums.

WIMMER: No. I do not recall a single case, and I would have had to know about it because the museums were under me.

DR. STEINBAUER: Yes, that is why I asked you. Were there possibly any archives that were carried away?

WIMMER: In general, no; but an exchange of archives was probably worked out during the occupation; which had been under consideration even before the war. There was an exchange of archives between, in particular, the "Hausarchiv," but also other Dutch archives, and German archives, and—to be exact, this was done according to where they came from—on the so-called principle of origin.

DR. STEINBAUER: Was it possible for everybody to confiscate what he wanted, or was that controlled in any way?

WIMMER: No, that was controlled, and the respective regulations were again repeated in an especially stern decree of the Reich Commissioner during the last year. Those who transgressed or intended to transgress these regulations were given serious warning. There were only two agencies which, according to the decree, were allowed to carry out confiscations at all, and these were the Police and the Armed Forces.

DR. STEINBAUER: In conclusion, I should like to refer back once again to the Armed Forces operations. Was that discontinued in the fall? By "Armed Forces operation" I mean the deportation of those members of the population able to carry arms.

WIMMER: That was stopped on the basis of an objection made by myself on behalf of the Reich Commissioner to General Student, who at that time was chief of the army group, and under whose jurisdiction the Netherlands also came at that time.

DR. STEINBAUER: Then one last question. Can you remember the Jewish Library Rosenthaliana?

WIMMER: Yes.

DR. STEINBAUER: What happened to that?

WIMMER: As far as I know, it remained in the Netherlands.

DR. STEINBAUER: Was that not to have been removed?

WIMMER: Yes. There were such intentions, but since this library was public property, the property of the City of Amsterdam, the Reich Commissioner, upon my suggestion, ordered that this library was to remain in Holland.

DR. STEINBAUER: Mr. President, I have concluded the questioning of this witness.

THE PRESIDENT: Any other defendants' counsel want to ask questions?

Do the Prosecution wish to cross-examine?

M. DEBENEST: Witness, you were selected to fill the office of commissioner general in the Netherlands by Seyss-Inquart himself?

WIMMER: Yes.

M. DEBENEST: You had known Seyss-Inquart for several years?

WIMMER: Yes.

M. DEBENEST: Had you not been one of his assistants ever since 1938?

WIMMER: Yes.

M. DEBENEST: Is it true that during the occupation of the Netherlands a large number of members of the NSB and pro-German elements were appointed not only to leading positions, but also to subordinate positions in the Dutch police, and that they were charged with executing orders issued by the occupation authorities, such as the arresting of Jews, members of the resistance, and hostages?

WIMMER: I can confirm the fact that members of the NSB and of groups friendly to the Germans were employed in high and low positions by the Reich Commissioner. However, as to their proportional part within the total of Dutch civil servant employment in the civilian branch, I believe that even at the end of the occupation period the participation of these groups in proportion to the Dutch population was not greater . . .

M. DEBENEST: I spoke to you expressly about the police; reply to that point.

WIMMER: You mean only the police?

M. DEBENEST: I told you, the police.

WIMMER: Yes, that is known to me. However, I do not believe that those members of pro-German groups received special assignments, but rather I believe that they received their assignments in exactly the same way as the other civil servants in the same positions. I cannot, however, say anything in detail about that, because I had very little to do with the police.

M. DEBENEST: When officials of the Dutch police refused to carry out orders which had been given to them by the occupation authorities and abandoned their posts, did not the German authorities take members of their families as hostages—women and children, for instance?

WIMMER: I cannot recall that.

M. DEBENEST: In no case?

WIMMER: That relatives of police officials were arrested? Members of their families?

M. DEBENEST: Yes, of those who were not carrying out the orders of the German authorities.

WIMMER: I do not remember that.

M. DEBENEST: That is fine. Well, perhaps you may remember that members of families of Dutch citizens who offered resistance in one way or another were arrested as hostages?

WIMMER: I have heard about that.

M. DEBENEST: There were some hostages arrested in such cases, for example, were there not? There were hostages arrested in those cases?

WIMMER: You call it "hostages." Do you also use that expression in cases where the individuals concerned did not have to expect that they would lose their lives, that it would cost them their heads?

M. DEBENEST: So far I have been asking you the questions, and you have been answering them.

For instance, did you not receive protests from the Board of the University of Amsterdam against the fact that the wife and children of a professor of that university had been arrested as hostages?

WIMMER: I do not remember that. It is possible, however, that such a complaint came to the Main Department for Education, which belonged to my Commissariat.

M. DEBENEST: In any case, you do not deny the fact?

WIMMER: I could not deny it 100 percent, but I do not know anything about it.

M. DEBENEST: Another question. Following the declaration of loyalty which was imposed on the students, those who refused, were they not forced to present themselves immediately for work, and were they not deported to Germany without waiting for their group to be called up?

WIMMER: Yes, but not by the Labor Service. Do you mean the Office for the Allocation of Labor?

M. DEBENEST: That is of little importance; but they were deported to Germany for that reason, were they not?

WIMMER: Yes, by virtue of a decree by the Higher SS and Police Leader.

M. DEBENEST: Is it not true that numerous and extensive reforms were introduced by the Reich Commissioner in all the activities of the life of the Dutch people, and that these reforms were all contrary to the Constitution?

WIMMER: One cannot say that.

M. DEBENEST: But there were reforms, were there not?

WIMMER: Certainly, yes, which were caused by the necessities of war and the fact of the occupation. And there is a third factor involved, too, which was that there were measures necessitated by the absence of the head of the State and the Government.

THE PRESIDENT: Mr. Debenest, would it not be better to put the particular points you want to him, rather than general questions, which will enable him to deal with the matter at length?

M. DEBENEST: Yes, Mr. President.

[Turning to the witness.] Did the civil administration service in the Netherlands enjoy a certain freedom?

WIMMER: Yes, a great deal of freedom.

M. DEBENEST: I am going to read to you a passage from a report by the Defendant Seyss-Inquart, a report drafted on 19 July 1940. You shall tell me whether you still maintain the reply that you have just given me. This is what Seyss-Inquart wrote:

> "The civil administration"—he means the civil administration in the Netherlands—"at present finds itself in a sufficient and otherwise progressive way under the direction and control of the German authorities."

Is the answer which you have just made in agreement with what Seyss-Inquart wrote?

WIMMER: If mention is made in Dr. Seyss-Inquart's reply that the control was in German hands, that can only mean that the supervision was in the hands of German authorities, for it is naturally to be taken for granted that the German occupation authorities reserved for themselves a certain control and supervision over Dutch legislation, as well as over all important acts of administration and government; and if everything went as it should, important decrees could not be issued without the approval of the occupying power.

M. DEBENEST: That is enough. The Tribunal will judge your answer with regard to this document.

Will you explain why a civilian government was established in the Netherlands, whereas no such government was set up in other countries, such as Belgium, for instance?

WIMMER: I do not know the real reason for that, but from what I have heard and could find out myself the main reason was that Germany attached the greatest value to establishing a good relationship with the Netherlands, and the leaders in the Reich probably thought that this could be more easily done through men of the civilian administration than through the Armed Forces.

M. DEBENEST: More exactly, were they not pursuing a political goal in this, the goal of placing the country in the hands of the National Socialists, in order to bring about some sort of Germanic federation of Germanic states?

WIMMER: Whenever I spoke with the Reich Commissioner about such things, the Reich Commissioner expressed the point of view that the Dutch people had all the characteristics of a distinct and independent people and therefore should remain independent and sovereign as a state. It goes without saying that during the occupation period the Reich Commissioner and the German administration maintained fairly close contact with these parties and groups which were pro-German, and I do not have to give any reasons for that. But that the Netherlands, especially during a period of occupation, were not going to accept completely the political ideology of the occupying power was quite clear to the Reich Commissioner, as indeed to anyone who was able to judge the conditions at all reasonably.

M. DEBENEST: You said a few moments ago, if I understood correctly, that the Reich Commissioner did not want to force the secretaries general of the Netherlands to make decisions which might be contrary to their conscience, and if they felt uneasy about it, they could ask for their dismissal. Is that what you stated?

WIMMER: Yes.

M. DEBENEST: Did he dismiss any secretaries general who had not asked to resign?

WIMMER: There was only one exception, that of Secretary General Spitzen. That was the Secretary General to the Ministry of Waterways who did not carry out an order of the Reich Commissioner and in spite of this did not hand in his resignation.

M. DEBENEST: What secretary general was this? In which department?

WIMMER: That was the Ministry of Waterways; that was the Ministry that was responsible for canals, reclaimed land, highways, inland waterways, and so forth.

M. DEBENEST: Is that the only case that you knew of?

WIMMER: That is the only case of which I knew.

M. DEBENEST: In what year was that?

WIMMER: That, I believe—one moment—at any rate, that was in 1944; in the summer, I believe.

M. DEBENEST: Do you not remember the dismissal of the Secretary General for National Defense, Mr. Ringeling?

WIMMER: The dismissal of the Secretary General for National Defense was not a matter for the Reich Commissioner, but fell within the jurisdiction of the military commander, since by virtue of the Führer's decree all military matters fell within the jurisdiction of the military commander.

M. DEBENEST: Why was he dismissed?

WIMMER: That is not known to me.

M. DEBENEST: Try to refresh your memory with the aid of Seyss-Inquart's report and then we will see whether this was in agreement with the head of the Armed Forces. This is what the defendant writes:

"One of the secretaries general tried . . ."

THE PRESIDENT: M. Debenest, the witness does not know anything about it, apparently.

M. DEBENEST: He says that he does not know the reasons, Mr. President, but he adds—he had previously added—that it was in agreement with the military authorities.

THE PRESIDENT: It is a matter which would come under the competence of the military authorities; and he does not know about it. That is what he said.

WIMMER: All the matters of the Ministry for National Defense fell within the jurisdiction of the military commander, for it is perfectly clear that everything of a military nature which took place or was directed in the Netherlands there was directed by this Ministry, and it is clear that the commander, the German military representative of the Reich, was competent in this sphere.

THE PRESIDENT: If you have a document which proves that the man's dismissal was done by Seyss-Inquart, I suppose you can put it to him.

M. DEBENEST: I wanted simply to demonstrate that the answer he gave was inexact, merely by reading four lines of the document.

THE PRESIDENT: As I said, if you have a document which proves that the man's dismissal was by Seyss-Inquart, you can put it to him.

M. DEBENEST: That is what I intended to do, Mr. President.

THE PRESIDENT: Do it; put it to him, then.

M. DEBENEST: I do not have the original in German. I handed it in yesterday evening to the Secretary of the Tribunal.

THE PRESIDENT: Read it to him, M. Debenest. Read it to him.

M. DEBENEST: That is what I am going to do, Mr. President. *[Turning to the witness.]* Here is what Seyss-Inquart wrote:

> "One of the secretaries general tried to appeal to the authority of Winkelmann"—Winkelmann was the military chief—"concerning the question of the continuation of work in armament factories for the Armed Forces, but this official . . ."

WIMMER: I did not understand that. Will you please read the last two sentences once more?

M. DEBENEST: "... concerning the matter of the continuation of armament factories for the Armed Forces. But this official was immediately dismissed."

WIMMER: But that does not say that the Reich Commissioner dismissed this official.

M. DEBENEST: Certainly it is not said that the Reich Commissioner did it; but it is none the less clear in this report that the Reich Commissioner indicates here that when an official, no matter who he may be, does not obey the orders which are given to him, he is dismissed from his office and he quotes this case as an example.

WIMMER: But here it is a question of the military branch. What I have said before deals exclusively with the civilian sector branch, the Reich Commissioner's branch. It is perfectly clear and possible that in a report to Hitler the Reich Commissioner should speak about other things also, because he was the guardian of the interests of the Reich. And he reported about other things to his superior, besides those which were exclusively within his sphere of activity. Nor do I know whether by these officials or these workers, for example, the secretary general is meant, the Secretary General for National Defense.

M. DEBENEST: Very well. We will leave this question.

Did you not require that the Secretary General for Education should place the Kamerlingh Onnes laboratories in Leyden at the disposal of the German authorities for research on atomic energy?

WIMMER: But only in the Netherlands; not in Germany.

M. DEBENEST: But if it was not for Germany, the Secretary General for Education had perfect freedom to decide for himself; you did not have to intervene, did you?

WIMMER: No. That was a German measure which had been demanded by the Reich and which was now carried out in such a manner that all the materials, machinery, and so on, remained in the Netherlands, and German scientists were to have the opportunity to carry out their researches there. Moreover I do not believe that that had anything to do with atomic matters. Who said that?

M. DEBENEST: You claim that important public libraries and private libraries were not confiscated or transported to the Reich? You said so just now, is that not a fact?

WIMMER: Just now? I did not talk about libraries at all just now.

M. DEBENEST: But just now when Seyss-Inquart's defense counsel was questioning you, you certainly said, unless I misunderstood you, that no libraries had been transported to the Reich which came from the Netherlands.

WIMMER: I did not say that. Will you please show me that in the transcript?

M. DEBENEST: Then it is doubtless a mistake. Were not the professors of the University of Amsterdam threatened with the death penalty if they handed in their resignations, and did you not threaten them yourself?

WIMMER: I neither expressed such a threat, nor do I know of any such threat. I consider it quite impossible that anybody could have uttered such a threat.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 14 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-FIFTH DAY

Friday, 14 June 1946

Morning Session

[The witness Wimmer resumed the stand.]

M. DEBENEST: I still have a few questions to put to this witness.

Witness, in view of the answers which you made yesterday about the libraries which have been looted and taken to Germany, I would like to read to you a few lines taken from a document which I submitted the day before yesterday to the Tribunal. This document is F-803, Exhibit RF-1525, on Page 34 of the French text. This is a report from the Minister of Education and Art of the Netherlands. We find the following:

> "The collections as well as the libraries of the International Institute for Social History at Amsterdam have been closed down. The library, which has about 150,000 volumes, as well as a very important collection of newspapers, has been taken to Germany. The Library Rosenthaliana of the University of Amsterdam, which belongs to the city, has been packed in 153 crates and has also been taken to Germany. Famous collections concerning natural history of the College of St. Ignace at Valkenburg and the Museum of Natural History at Maastricht have also been taken to Germany, as well as the library which belonged to it.
>
> "In 1940 all the property of the Freemasonry Lodges was confiscated and taken away to Germany. It included the well-known Klossiana Library."

THE PRESIDENT: M. Debenest, haven't you put enough for the purpose of your question now? We have got the document already, and you have put about half a dozen libraries which you are suggesting to him were taken to Germany, and you want to know what he has to say to it, I suppose. It is not necessary to go into the whole detail.

M. DEBENEST: What do you think about this story, Witness? Are these facts correct?

WIMMER: The question which you have put to me was answered in part yesterday, as far as it concerns the property of Freemasons.

It was said yesterday, and I confirmed it, that it is known to me that the property of the organizations, but not of the individual members, was confiscated.

THE PRESIDENT: That is not an answer to the question. The question is, was it true that these libraries were moved to Germany?

WIMMER: I know nothing of the removal of these libraries.

M. DEBENEST: But you did, nevertheless, claim that the Rosen thaliana Library had remained in the Netherlands, did you not?

WIMMER: The Rosenthaliana, I said that.

M. DEBENEST: The Rosenthaliana, yes; the report specifies that it was packed in 153 crates and taken to Germany.

WIMMER: I do know that instructions were given by the Reich Commissioner that this library was to remain in Amsterdam. If it was removed in spite of this, the action was contrary to instructions and I have no knowledge of it.

M. DEBENEST: But still it was you who were responsible for education, or at least for supervising education in arts?

WIMMER: Yes, but not of the arts.

M. DEBENEST: No, but as far as the libraries and universities were concerned?

WIMMER: Yes.

M. DEBENEST: It is rather curious that you should not have been kept informed of this.

WIMMER: I do not know whether the library was removed or not.

M. DEBENEST: Very well, then. According to the statements which you made yesterday evening you seem to claim that the Reich Commissioner did all he could for the Dutch nation; is that not so?

WIMMER: Yes.

M. DEBENEST: At any rate, he always did everything he could to avoid the worst; is that so?

WIMMER: Yes.

M. DEBENEST: On the other hand, you know that numerous people in that country were interned, deported, and shot; that that nation was hampered and coerced in every sphere, under threat of heavy penalties and reprisals. Finally you know that that country was looted. Who were then the people who ordered these crimes and committed them?

WIMMER: I said that the Reich Commissioner did for the country what he could, and prevented as much as he could. In a 5-year

period of occupation measures had to be taken which were difficult for the country to bear. I do not deny the fact; it is undeniable. I would ask you to formulate your question more concretely, and to mention the actions which you call crimes. The question is too general for me to answer it "yes" or "no," or even briefly.

M. DEBENEST: Who ordered the arrests?

WIMMER: Which arrests?

M. DEBENEST: The arrests of the Dutch people, of course.

WIMMER: The arrests were ordered by the Higher SS and Police Leader; he was chief of police.

M. DEBENEST: Who ordered the internments?

WIMMER: Which internments? Do you mean internments in the concentration camps?

M. DEBENEST: In concentration camps and in internment camps.

WIMMER: They were ordered by the Higher SS and Police Leader. That was his department.

M. DEBENEST: Who chose the hostages?

WIMMER: The Police.

M. DEBENEST: Who appointed Rauter as Commissioner for Public Security?

WIMMER: As Commissioner General for Public Security? He was appointed by the Reich Commissioner, but his main function was that of the Higher SS and Police Leader. For this function he was appointed by the Reichsführer SS.

M. DEBENEST: But he had been appointed—I suppose you know the order—to assist the Reich Commissioner in his job of helping with the Police and for security.

WIMMER: He was to be at the disposal of the Reich Commissioner, but the Reich Commissioner did not have the unconditional right to issue instructions to the Higher SS and Police Leader. The Reichsführer SS had this right. The appointment as Secretary General for Security was a formality. It was made because the Reichsführer SS wished the Higher SS and Police Leader to have this title too. Originally he was not to be appointed Commissioner General.

M. DEBENEST: You therefore consider that Seyss-Inquart had no authority over Rauter?

WIMMER: Yes.

M. DEBENEST: Very well. In that case I am going to read a document to you, and you will tell me what you think of it, whether

Seyss-Inquart had no authority; and you can also make any explanations you choose.

That is Document 3430-PS, which has already been submitted as Exhibit USA-708. This is an excerpt from Seyss-Inquart's speeches made in Holland, and is to be found on Pages 124 and 125 of the German text. I submit it to the Tribunal. It will most probably also be found in the trial brief of Seyss-Inquart. I am afraid I do not have the exact page but I think it is Page 57 or 58.

[Turning to the witness.].

Seyss-Inquart in that speech of 29 January 1943 said:

> "I will give the orders, and they must be strictly carried out by everybody. In the present situation, the refusal to carry out such an order cannot be called anything except sabotage. It is equally certain that we must, more than ever, eliminate and do away with all resistance directed against the struggle for life."

And further on, he says:

> "At a time when our husbands, our sons, our fathers are fighting and meeting death in the East with bravery and fortitude and without weakening and are making the greatest sacrifices, it is unthinkable that we should tolerate conspiracies which seek to render insecure the rear of the front in the East. The person who dares to do that must perish."

If Seyss-Inquart had had no authority over the Police, would he have been able to make such a speech and say that he would issue the orders?

WIMMER: I did not say that Seyss-Inquart had no authority with regard to the Police, I only said that the orders were given by the Higher SS and Police Leader. The relationship with the Police was as follows:

The Reich Commissioner could, of course, turn to the Police in any case in which he needed them; but this only amounted to a wish and not a binding order. In such cases, if they were important, the Police first consulted the Reichsführer SS or his office; and only if this office approved could a wish of the Reich Commissioner be carried out by the Police.

M. DEBENEST: The question is simpler than that. Could he—"yes" or "no"—issue orders in cases such as are mentioned in his speech? He himself mentioned this, you know.

WIMMER: He could make a request but not give orders.

M. DEBENEST: I merely note that you do not agree with Seyss-Inquart's speech.

I will now speak to you of another document; and you will tell us how you explain that Seyss-Inquart could only make requests, as you term it, and not give orders. This is Document F-860, which I submitted yesterday. This document is a letter from Seyss-Inquart to Dr. Lammers. In this letter he writes that he had wanted to reorganize the Dutch police in order to adapt it to the German police organization; and in the same document he states the opinion that the police must be the strongest expression of the internal administration of a country, which should not be transferred to another agency. That is what Seyss-Inquart says in that document. How can you then co-ordinate your answer with what Seyss-Inquart writes?

WIMMER: This reorganization was not suggested by the Reich Commissioner but originated from the Police itself. The Reich Commissioner by this reorganization—and I myself, too—tried to have the Dutch police at least not completely separated from the administration, which in the main was already the case in Germany, and was what the German Police in the Netherlands also wanted.

M. DEBENEST: You contradict what Seyss-Inquart himself wrote in this document. How do you explain what Seyss-Inquart wrote further on in the same document:

> "I would not like to appoint expressly as administrator of court procedure the Higher SS and Police Leader here, for this appointment suggests to the Dutch a limitation of the authority of the Reich Commissioner. This is of particular importance because the Reich Commissioner was appointed as the guardian of the interests of the Reich by order of the Führer. But I have myself given to the Higher SS and Police Leader all the powers which an administrator of courts needs."

WIMMER: Would you please read the first two sentences again?

THE PRESIDENT: M. Debenest, the document is before us, don't you think?

M. DEBENEST: Yes, Mr. President.

THE PRESIDENT: It is scarcely worth while to argue with the witness about it.

M. DEBENEST: I will not insist upon it, Mr. President.

Witness, how do you explain the fact that Schöngarth—you saw the document yesterday, did you not, which counsel for the defense submitted to you, the interrogatory of Schöngarth—how do you explain the fact that Schöngarth, on the very morning after the attempt on Rauter's life, went to Seyss-Inquart and that Seyss-Inquart gave him the order, as he himself states in the document,

to take increased measures of reprisal and to execute 200 prisoners, and this with the aim of intimidating the population?

WIMMER: Yesterday, I believe, I exhausted this subject. I said everything I knew about it.

M. DEBENEST: Will you give me the explanation I am asking you to make?

WIMMER: I said yesterday that Brigadeführer Schöngarth came to me and—to be brief about it—represented the matter to me to the effect that the Reichsführer SS had demanded 500 shootings and that Schöngarth, on the advice and the request of the Reich Commissioner, had succeeded in reducing the number to 200. That is what I said yesterday.

M. DEBENEST: You maintain that he had received orders previous to the ones he received from the Reich Commissioner then?

WIMMER: Not from the Reich Commissioner but from the Reichsführer SS.

M. DEBENEST: Yes, from the Reichsführer?

WIMMER: I can only say that Brigadeführer Schöngarth reported the matter to me in that way. I was not there when he telephoned the Reichsführer SS.

M. DEBENEST: Very well. Didn't you yourself take part in a meeting during which hostages were chosen?

WIMMER: A meeting?

M. DEBENEST: A meeting—a conference, if you prefer.

WIMMER: Yes.

M. DEBENEST: On what occasion?

WIMMER: I recall that in the Rotterdam case the Reich Commissioner had a conference with the Commissioners General, and the matter was reported.

M. DEBENEST: Were you present at the meeting with General Christiansen?

WIMMER: I cannot say with certainty; I believe I was.

M. DEBENEST: Do you know what Seyss-Inquart said during that meeting, what his attitude was?

WIMMER: His attitude was that the intention of the Armed Forces to carry out 50—or as I heard yesterday, 25 shootings—was going too far and could not be done. In this connection, I already testified yesterday that the Reich Commissioner was able, after repeated remonstrations, to persuade the Armed Forces to agree finally to have only five hostages shot.

THE PRESIDENT: Mr. Debenest, this has all been gone over with Seyss-Inquart, has it not?

M. DEBENEST: Yes.

THE PRESIDENT: And with this witness?

M. DEBENEST: Yes, Mr. President. I just wished to see whether the witness agreed with the document which I submitted to the Tribunal.

I have finished, Mr. President.

THE PRESIDENT: Do you wish to re-examine, Dr. Steinbauer?

DR. STEINBAUER: I have no questions to put to the witness, Mr. President.

THE PRESIDENT: The witness can retire.

DR. STEINBAUER: With the approval of the Court, I shall call the witness Dr. Hirschfeld to the stand.

[The witness Hirschfeld took the stand.]

THE PRESIDENT: Will you state your full name, please?

HEINZ MAX HIRSCHFELD (Witness): Heinz Max Hirschfeld.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Witness, when the Netherlands was occupied on 12 May 1940, were you Secretary General of the Economic and Agricultural Ministries?

HIRSCHFELD: Before I answer your question, I should like to state that I would have preferred to speak Dutch, but in order not to delay the proceedings, I will speak the foreign language which I speak best; I will speak in German.

THE PRESIDENT: Thank you.

HIRSCHFELD: As for your question, I can say "yes."

DR. STEINBAUER: In this same capacity, did you direct the affairs of both Ministries until the end of the occupation?

HIRSCHFELD: Yes.

DR. STEINBAUER: Is it true that the Reich Commissioner, in the first conference, told all the secretaries general that he expected loyal fulfillment of their duties, but that no one would have to fear any disadvantage if he should resign?

HIRSCHFELD: In answer to that, I should like to say that the Netherlands secretaries general, who were ordered by the Netherlands Government to remain in the Netherlands, told the Reich Commissioner at that time that, in the interests of the Netherlands people, they would remain in office after they had received approval to do so from the Commander-in-Chief of the Netherlands Army who, at that time, was the authorized representative of the Netherlands Government. In answer to the question of the Reich Commissioner we said, yes, under those conditions.

As for his remark about not fearing disadvantages if we should resign, we answered that that had nothing to do with our decision.

DR. STEINBAUER: Did the secretaries general who resigned receive their pension? For example, Mr. Trip, who was president of the Netherlands Bank.

HIRSCHFELD: Yes.

DR. STEINBAUER: Did the Secretary General of the Interior, Frederiks, remain in office until September 1944?

HIRSCHFELD: Yes.

DR. STEINBAUER: Now we will speak of your own department, Agriculture and Economy.

Did the Reich Commissioner interfere in the administration of your Ministry? In particular, did he release or transfer officials from the food service?

HIRSCHFELD: The Reich Commissioner personally did not interfere. His officials attempted to do so several times, but we refused to allow it.

DR. STEINBAUER: A so-called State Political Secretariat of the NSB existed. Did it have any influence on the administration?

HIRSCHFELD: According to the order of the Reich Commissioner, this State Political Secretariat had no influence on the Netherlands administration. However, I should like to add that through the appointments of NSB secretaries general later such influence actually took place in various departments, though not in mine.

DR. STEINBAUER: Did the Reich Commissioner have the head of the food service, Louwes—who was known as being hostile to the Germans—retained in the interest of the food supply for the population?

HIRSCHFELD: I believe the Netherlands officials left behind by the Government had in general the same attitude as M. Louwes. However, M. Louwes was left in his office.

DR. STEINBAUER: Although it was demanded that he should be removed?

HIRSCHFELD: This was reported to me by M. Van der Vense at that time.

DR. STEINBAUER: When the trade economy was reorganized, was this done by order of the Reich Commissioner or by the secretary general?

HIRSCHFELD: The reorganization of the trade economy was carried out on the basis of an order signed by me; although there was originally a draft, which was to be signed by the Reich Commissioner. I refused this because I was of the opinion that this was a Dutch affair, and if the order was signed by me the danger of German influence could be prevented.

DR. STEINBAUER: The Reich Commissioner organized agriculture in the so-called "Landstand." Did this Landstand receive any executive powers?

HIRSCHFELD: The Landstand did not receive any executive powers. I should like to add that in a personal talk I advised the Reich Commissioner not to form the Landstand.

DR. STEINBAUER: Was the so-called Conscription Order of 1941 enforced to a great extent, particularly in the Netherlands?

HIRSCHFELD: As far as I know, the Conscription Order was only enforced to a limited extent in the Netherlands; but it was applied all the more to the deportation of Dutch workers to Germany.

DR. STEINBAUER: There was also a drive to remove members of the population who were capable of military service, especially from Rotterdam and The Hague—who carried out this drive?

HIRSCHFELD: Which drive do you mean?

DR. STEINBAUER: To remove members of the population capable of military service.

HIRSCHFELD: In 1944?

DR. STEINBAUER: 1944.

HIRSCHFELD: This drive was carried out by the Armed Forces.

DR. STEINBAUER: Did the Reich Commissioner weaken this action by making exemptions, particularly in your department?

HIRSCHFELD: As for issuing exemptions, I heard very little of this at the time.

DR. STEINBAUER: The shipyards and dock installations in Rotterdam and Amsterdam were to be blown up. Do you know the attitude of the Reich Commissioner on this subject?

HIRSCHFELD: I only know, from statements of the deputy of the Reich Commissioner, Völkers, in Rotterdam, that he resisted these measures in the face of the Armed Forces.

DR. STEINBAUER: Mr. President, I must remark that Völkers' affidavit has not yet arrived and at the moment cannot be traced at all; that is why I am putting this question to the witness.

[Turning to the witness.] Do you confirm the fact that through the intervention of the Reich Commissioner the area which was to be flooded was reduced by about 100,000 hectares?

HIRSCHFELD: I know that through the intervention of the Reich Commissioner, or his office, the area to be flooded in 1933 was reduced; I do not know exactly to what extent.

DR. STEINBAUER: You mean 1943. You made a mistake; you said 1933; it must be 1943.

HIRSCHFELD: 1943.

DR. STEINBAUER: Is it possible that this figure of 100,000 hectares is correct?

HIRSCHFELD: I recall that it might be about half of what the Armed Forces had intended to flood at that time.

DR. STEINBAUER: Is it true that the Reich Commissioner, in view of the blockade, changed agriculture over to the production of food at an opportune moment?

HIRSCHFELD: When in 1940 the Netherlands was invaded and occupied by the Germans, the authorities who dealt with agriculture were of the opinion that a reorganization of agriculture was necessary. The Reich Commissioner and his office did not oppose us in this work.

DR. STEINBAUER: Is it true, in particular, that the stock of high quality cattle in the Netherlands was retained by these measures?

HIRSCHFELD: The livestock in the Netherlands was, to my knowledge, reduced by about 30 percent in the period of occupation. These measures of reorganization of agriculture made it possible to retain this 70 percent of the livestock throughout the war. Pigs, however, had been reduced to a much greater extent and it was necessary to slaughter almost all the poultry.

DR. STEINBAUER: The question of the embargo in 1944 was discussed in detail here. I have one question to put to you:

When did you speak to the Defendant Seyss-Inquart for the first time about lifting the embargo?

HIRSCHFELD: In answering this question, I must go back a little. When the railroad strike was proclaimed, M. Louwes and I on 17 September—I beg your pardon, on 22 September 1944—were visited by Van der Vense who on behalf of the Reich Commissioner

told us that he expected that M. Louwes and I would issue an appeal to the railroad men in order to put an end to the railroad strike in the interests of the food supply for the country. If we did not do so, countermeasures would immediately be taken to threaten the Netherlands population in the west of the country with famine.

We refused to issue such a statement, and we told Van der Vense that he should report to the Reich Commissioner that reprisals against the population in connection with the railroad strike would place responsibility for the famine on the Reich Commissioner. That was the decisive discussion. Nevertheless, the embargo came into being. Thereupon protests were issued on this subject to the various agencies of the Reich Commissioner, and on 16 October 1944 the first discussion took place in which it was announced that the intention was to lift this embargo.

DR. STEINBAUER: Is it true that unfortunately in this particular year the frost came earlier than in other years?

HIRSCHFELD: Perhaps it came a little earlier than in other years; but in Holland the question of frost is always uncertain. From the Dutch side it was pointed out—I did this myself in a press report—that we always have to expect an early frost.

DR. STEINBAUER: When the invasion threatened and a large part of the population was drawn upon to build fortifications, did the Reich Commissioner agree to your suggestion that a large number of the agricultural workers should be allowed to go home early?

HIRSCHFELD: I know of two cases. In the first place, it was a question of workers from the big cities who were sent to the northeastern provinces in order to dig potatoes; and the promise was made that these workers would not be used for fortification work. This promise was kept. Secondly, at the same time a large number of agricultural workers in the province of Drente, who were already being used for fortification work, were released for digging potatoes.

DR. STEINBAUER: I was unfortunately not able to ask the witness Fischböck about questions relating to finance. Do you know that M. Trip, who resigned on the question of the foreign currency blockade, was left in the Bank for International Payments by the Reich Commissioner in agreement with Funk, the Minister for Economy?

HIRSCHFELD: I recall in this connection that M. Trip intended to resign as a member of the administrative council of the International Bank. When this became known, the Germans were apparently somewhat scared; and M. Trip was asked not to hand

in his resignation. I know that he did not hand it in. What this implied and what reasons were behind it, I do not know from my own experience.

DR. STEINBAUER: I have two last questions, which are extremely important. We know of an order of the Reich authorities under the title "scorched earth." It was actually issued in March 1945 for the Netherlands. Locks, pump stations, dikes, *et cetera,* were to be destroyed. Do you know what was the opinion of the Reich Commissioner with respect to this important matter? Did you speak with him about this question?

HIRSCHFELD: This question was discussed for the first time in a conversation which I had with the defendant on 14 December 1944. In this conversation he told me that in view of military developments he feared that the Armed Forces might receive an order to destroy the western part of the country. At that time he discussed with me to what extent it would be possible to keep the western part of the Netherlands out of hostilities. On 7 January 1945 this conversation was continued. As a result of this conversation I attempted to establish contact with London on this question. I did not succeed in obtaining an answer. These reports had to be made by secret radio stations. I never learned whether it was even possible to get one through. Then the Reich Commissioner visited me on 2 April and told me that the "scorched earth" order had arrived and that he had called on Speer for that reason. Speer had told him that the Reich Commissioner did not need to carry out this order in the civilian sphere. But Speer could not speak for the Armed Forces. Therefore, the Reich Commissioner had also talked with General Blaskowitz. Blaskowitz had told him that orders were orders, but if a way could be found to avoid this order he would be ready to do so. Then the Reich Commissioner asked me what possibilities I could see. This discussion was the result of a communication which I reported to London by telegram in April 1945. It was confirmed to me that this report had reached London. Further conversations followed then.

DR. STEINBAUER: The last question: Did the Reich Commissioner, in contrast to the central authorities, establish any contact with the agents of the resistance movement in order to stop the war prematurely?

HIRSCHFELD: A few days after the conversation on 2 April 1945 I had a talk with the deputy of the Reich Commissioner, Schwebel. He asked me to what extent the Reich Commissioner could have been in contact with the agents and whether the few men designated by Herr Schwebel were the proper men. I then confirmed this.

DR. STEINBAUER: I have no further questions.

THE PRESIDENT: Do any other of the defendants' counsel want to ask questions?

DR. FRITZ SAUTER (Counsel for Defendant Funk): I should like to ask the witness a few questions.

Dr. Hirschfeld, you just said that the former president of the Dutch State Bank, Dr. Trip, was in the administrative council of the Bank for International Payments at Basel and remained there after he had resigned his office as bank president in Holland. You just confirmed that. I should like to ask you, do you know that the Reich Minister of Economy, Funk, urged the bank in Basel to allow Dr. Trip to remain in the International Bank in Basel although Dr. Trip was no longer authorized to represent Dutch interests?

THE PRESIDENT: How are we concerned with this, Dr. Sauter?

DR. SAUTER: In questioning the Defendant Seyss-Inquart the French Prosecution brought out the fact that the former president of the Dutch State Bank, Dr. Trip, was forced to resign or did resign; and the Defendant Seyss-Inquart was charged with this. As defense counsel for the Defendant Funk I should like to prove that the Defendant Funk took the part of Dr. Trip as president of the Netherlands State Bank and saw to it that Dr. Trip was retained in the International Bank at Basel.

THE PRESIDENT: Well, Dr. Sauter, the Tribunal thinks it so remote and so trivial that really it is quite a waste of time for the Tribunal to listen to this sort of thing.

DR. SAUTER: Very well, Mr. President, then I will ask another question.

Witness, do you know that at the time when Dr. Funk was president of the Reichsbank, the Reichsbank shares in the possession of Dutch capitalists were taken over and that Dutch circles generally acknowledged that this was done in a fair and satisfactory way by Dr. Funk?

HIRSCHFELD: I know nothing at all about taking over shares in the Reichsbank.

DR. SAUTER: Do you know anything, Dr. Hirschfeld, about the opinion Dr. Funk expressed to you on the question of the treatment of the clearing debts?

HIRSCHFELD: After the outbreak of the war between Holland and Germany I never spoke to Funk. Therefore he did not express any opinion at all to me during the war.

DR. SAUTER: Did you not learn from any other source what Funk's point of view was on the action to be taken in regard to the clearing debts?

HIRSCHFELD: I know from various reports and from publications during that time that the Germans represented these clearing debts as actual debts. We Dutch, however, never believed this; and if an expert on national economics had observed the development from the time when central clearing was organized during the war, he could have realized without difficulty that these debts could not represent any *de facto* value. In the course of the war they rose to more than 42,000 million marks. When the president of the Dutch Bank, who was appointed by Seyss-Inquart, compared the Reichsmark to the pound sterling in his annual reports, we in Holland laughed at it.

DR. SAUTER: Dr. Hirschfeld, you just spoke of a president of the Dutch State Bank who was appointed by Seyss-Inquart. I believe that was M. Rost van Tonningen?

HIRSCHFELD: Yes.

DR. SAUTER: Do you know that the Defendant Funk, who was the president of the German Reichsbank at that time, endeavored to prevent the appointment of Rost van Tonningen and wanted Dr. Trip to remain in office as president of the Dutch State Bank?

THE PRESIDENT: That is the same question again, isn't it? That is practically the same question as we have already said we did not want to hear about—about Funk's support of Dr. Trip?

DR. SAUTER: If I may say so, Mr. President, the first time I wanted to ask whether Funk tried to have Dr. Trip retained on the administrative council of the International Bank in Basel although he was actually no longer competent to represent Dutch interests, you said that that question was immaterial. The present question refers to whether Dr. Funk endeavored to have the Dutchman, Dr. Trip, retained as president of the Dutch Bank. That is the last question which I have to ask, Mr. President.

THE PRESIDENT: *[Turning to the witness.]* Well, do you know?

HIRSCHFELD: Yes. I should like to explain this a little. To understand this matter it is necessary . . .

THE PRESIDENT: Please, be very short about it then.

HIRSCHFELD: It is necessary to know that the Reich Commissioner and Dr. Fischböck were in favor of Rost van Tonningen, although it was known that we in the Netherlands considered Rost van Tonningen a traitor. When Trip was forced to resign, Wohlthat, the German Reichsbank Commissioner, told me that this matter was discussed in Berlin, and the basis of this information . . .

THE PRESIDENT: Yes, but I think what you were asked was whether Funk tried to get Trip appointed to the presidency of the Dutch Bank when this other man was appointed by Seyss-Inquart. Do you know whether Funk . . .

HIRSCHFELD: I only know from Wohlthat that Funk attempted to do so and that Göring made a different decision at the suggestion of the Reich Commissioner and Dr. Fischböck.

DR. SAUTER: Anyway, you confirm that Funk attempted to have the Dutchman, Dr. Trip, retained as president of the Dutch State Bank?

HIRSCHFELD: I confirm that, having been told so by Wohlthat.

DR. SAUTER: I have no more questions, Mr. President.

THE PRESIDENT: Is there any cross-examination?

M. DUBOST: Of what nature were the orders left to you by the Dutch Government when it left for England?

HIRSCHFELD: There were written instructions by the Dutch Government for all Netherlands officials of the administration. These instructions were based on the Hague Regulations for Land Warfare.

M. DUBOST: These orders, therefore, did not imperil the German Army?

HIRSCHFELD: No.

M. DUBOST: Will you then please explain, if you are capable of doing so, why Holland had an exceptional regime, since she was the only country in the West to have a Gauleiter immediately after the invasion?

HIRSCHFELD: We considered the appointment of a Reich Commissioner who was chief of the civilian administration in the Netherlands as an indication that the German Government had political intentions in the Netherlands and not purely the intentions of an occupying power.

M. DUBOST: In your opinion, therefore, Seyss-Inquart was appointed the day after the invasion had started because the German Government had the intention of altering the Dutch national institutions in contravention of international law?

HIRSCHFELD: We were convinced—and this was confirmed by experience—that all possible forms of National Socialist institutions would be introduced in the Netherlands and that one would attempt to force them upon the Netherlands.

M. DUBOST: This attempt was made?

HIRSCHFELD: Yes.

M. DUBOST: Is it true that during the occupation a great number of the members of the Dutch National Socialist Party were at the head of the police and carried out German orders to arrest Jews or members of the resistance movement or to take hostages?

HIRSCHFELD: Yes.

M. DUBOST: When the Dutch police itself became involved in these arrests, did it make them only because it was forced to do so?

HIRSCHFELD: The conditions were such that old Netherlands policemen, if they ever took part in such matters, did so because they were forced to; but there were Dutch policemen who had been appointed by the German authorities. They were, in general, members of the NSB and they, in part, volunteered for such malodorous tasks.

M. DUBOST: Is it true that the wives and children of those members of the Dutch police who refused to carry out German orders were taken as hostages?

HIRSCHFELD: I know that in various cases the families were taken as hostages when police officials refused to carry out orders. It is further known that this did not happen only in the case of the police, but also in other cases.

M. DUBOST: It has been alleged here that the diamonds taken at Arnhem had all been found in Holland. Does that agree with the facts?

HIRSCHFELD: What was stolen at Arnhem?

M. DUBOST: Diamonds.

HIRSCHFELD: Diamonds. The diamonds affair is a typical example of how they wanted to deal with Dutch property. These diamonds were in a bank safe in Arnhem. After the invasion of Normandy attempts were made by the Germans to seize these diamonds. The director of the Netherlands agency which is concerned with diamonds and later I myself were asked for the keys to the bank safe. We refused. And then on the day of the airborne landings near Arnhem, the German Armed Forces blew up this safe. Apparently only half of the diamonds were found and they were sent to the Reichsbank in Berlin.

When I protested, Fischböck said that they had only been put in the custody of the Reichsbank in Berlin. Then I demanded that these diamonds should be given back. Meanwhile, it was learned that half of the diamonds were still in Arnhem. The Currency Protection Command again demanded the keys which were in my personal possession. I refused and had another discussion with Fischböck. The matter was obviously distasteful to him; and he

agreed to the concession that the remaining diamonds, which we later found in Arnhem, be returned to the owner. But they were willing to give back the half which had been sent to Berlin only if they could be placed under German lock in a bank in the eastern Netherlands. I demanded from Fischböck that they be turned over without restrictions. Apparently Fischböck could not agree, and for this reason, after the liberation of the Netherlands, these diamonds were not given back; and as far as I know they have not yet been returned.

M. DUBOST: Did Seyss-Inquart return the property of the 1,000 Jews who were deported to Theresienstadt?

HIRSCHFELD: As to the Jews who were deported to Theresienstadt, I know that these people, on the basis of a promise given to my colleague Frederiks, were to be given preferential treatment; but that their property had been given back is not known to me and I do not believe it.

M. DUBOST: Was that property returned to them?

HIRSCHFELD: It had been confiscated. I did not hear that it was returned to them.

M. DUBOST: Seyss-Inquart said that in February 1941, 400 Jews had been transported from Amsterdam to Mauthausen as a measure of reprisal for the fact that a member of the NSB was supposedly murdered at Amsterdam by Jews. What do you know about this?

HIRSCHFELD: I know that in February 1941 there were two difficult situations in Amsterdam. One referred to shipyard workers. I believe 3,000 of them were to be forcibly sent to Germany. I intervened with Seyss-Inquart and succeeded in preventing this. There was, however, unrest in Amsterdam on this subject. In the second place, Jews were already being arrested in Amsterdam, which was the occasion for a strike. The incident of these 400 Jews of whom you speak took place after this strike in Amsterdam as far as I recall, because they wanted to make the Jews responsible for the strike. Fischböck told me so himself, and I said that I did not believe it and that this was only an excuse.

M. DUBOST: If I have understood you correctly, these Jews were arrested because the population in Amsterdam was opposed to their deportation. There were demonstrations and riots during which members of the NSB were killed. These Jews were therefore not deported in reprisal for the murder of the members of the NSB; on the contrary, the men of the NSB were killed at the time when they were going to arrest the Jews, before there was any idea of reprisal.

HIRSCHFELD: I recall that in these days the Amsterdam workers resisted when the Jews were being arrested, and this led

to an uprising in Amsterdam and to the strike. Exactly what happened I do not know from my own experience.

M. DUBOST: Did Seyss-Inquart prohibit ration cards to be given to workers who evaded deportation to Germany?

HIRSCHFELD: When in May 1943 the so-called age groups were called up for labor commitment in Germany, instructions were sent on 6 May to the competent Netherlands authorities announcing that workers who were called in these age groups could no longer receive any food cards. That was a decree of 6 May 1943, signed by an official of the Reich Commissariat by the name of Effger. We received this instruction; and although it reached us when martial law was in effect, the instruction was not carried out by the Netherlands authorities. What the German authorities argued, in effect, was: "Whoever does not work for Germany gets nothing to eat."

M. DUBOST: Seyss-Inquart claimed that the Dutch people who left to work in Germany up to 1942 were all volunteers. Is that correct?

HIRSCHFELD: No, they could not all be volunteers. The unemployed in the Netherlands received unemployment compensation, and shortly after the occupation a directive was issued that people who were suited for work in Germany and refused to volunteer for this work were no longer entitled to receive unemployment compensation. Thus they were under economic pressure.

M. DUBOST: Much has been said here as to whether Rauter was subordinate to Seyss-Inquart. Could you inform us on this?

HIRSCHFELD: So far as we in the occupied territories knew, Rauter was appointed by Seyss-Inquart at the beginning of June 1940 as Commissioner General for Security. No order which was then known indicated that Rauter had any kind of special position. The decree of the German Reich Chancellor of 18 May 1940 made it clear to us Dutch that the Reich Commissioner was the only responsible man in the Netherlands for the occupying power within the civilian sphere. Much later, from talks, I, and perhaps others who were better informed, realized that Rauter received direct orders from Himmler or from the Reich Security Main Office. But the population of the Netherlands could not know this.

M. DUBOST: Perhaps you know the result of the abolition of the "currency frontier" and its repercussion on life in Holland.

HIRSCHFELD: Yes. I will try to describe this matter in a few words. At the outbreak of war there was a clearing agreement between the Netherlands and Germany. Thus we Netherlands

officials, at the beginning of the occupation, were able to exercise special control for deliveries of goods and such to Germany, because there was not only border control by customs officials, but we could also control payment. It was particularly disagreeable to Fischböck that Dutch authorities could still refuse anything, and this was a cause for friction. He attempted to remove this clearing, and on the 1st of April 1941 the foreign currency border was removed. This made it possible for all goods to be bought in the Netherlands for Reichsmark, and they could be taken to Germany under the protection of the German authorities. I will give an example: According to an investigation, which I ordered at that time, there were a few hundred buyers of jewelry and gold and silver articles in the Netherlands. These articles are easy to carry with one. If there had been control of payment, it would not have been possible that in 1942 alone, according to our estimate, 80 to 100 million guilders' worth of such goods was taken away at high prices to Germany. The important point was that by lifting this control of foreign currency one could operate more freely. Furthermore, this was a possibility of buying Dutch securities on the Amsterdam stock exchange, for one of the German aims at that time was to tie Netherlands and German economy together. The easiest way to do this was to lift the "currency frontier," or more exactly, the currency control between the occupied territories and Germany; and thus Netherlands interests were prejudiced more severely than those of other occupied territories where this currency control was retained. I should like to add that of course even there ways of carrying out this exploitation were found.

The lifting of the currency control made the German policy in this connection much easier. This was clearly shown by an order of Hermann Göring of 1942, in which the control of the Netherlands German border was abolished and the Delegate for the Four Year Plan could write that there must be no control at the border even when price regulations or rationing regulations were infringed. That was what Hermann Göring added.

THE PRESIDENT: M. Dubost, the Tribunal thinks that this should be shortened, this discussion of the question of the abolition of the frontier policy for money.

M. DUBOST: I have no more questions on this point, Mr. President.

[Turning to the witness.] What amount of money did Holland pay Germany for the cost of occupation?

HIRSCHFELD: The total sum which was paid by the end of the occupation was 8,500 million guilder.

M. DUBOST: In what form were these payments demanded?

HIRSCHFELD: These 8,500 million guilder consisted of credits which the Armed Forces demanded for the direct occupation costs in the Netherlands; furthermore, for the cost of the machinery of the Reich Commissariat; and third, payments which were imposed on the Netherlands under the expression which was used at first, "outside occupation costs," that is, expenses which the Armed Forces incurred in Germany in the interest of the occupation forces in the Netherlands. The form in which it was paid, as far as it concerned payments in the Netherlands, was in Dutch money. Payments in Germany were made in gold, which was demanded from the Netherlands Bank, or were taken from the account which the Netherlands Bank had with the Reichsbank.

M. DUBOST: Were these payments the result of one of the conditions of capitulation?

HIRSCHFELD: I know the capitulation conditions of 14 May 1940 and they do not mention anything about occupation costs.

M. DUBOST: What is the damage sustained by Holland in other ways as a result of the looting of the means of construction, machinery, stocks, ships, and so forth?

HIRSCHFELD: It is extremely difficult to give an exact figure because it could not be determined during the occupation. But, after the German capitulation, the Netherlands Government reported the sum of about 25,000 million guilders to the Reparation Committee in Paris as damages for occupation. This would include the 8,500 million in occupational costs which I just mentioned.

THE PRESIDENT: M. Dubost, isn't this all contained in the Dutch report?

M. DUBOST: Oh no, Mr. President, certainly not.

How did Seyss-Inquart's attitude change during the occupation?

HIRSCHFELD: I should like to make a clear distinction with regard to his point of view after September, after the autumn of 1944, and during the first 4½ years. After the autumn of 1944 he was much more outspoken in the Netherlands' interests than previously.

M. DUBOST: Before being the secretary general of the various administrations, which you administered during the German occupation, you were Director of Foreign Trade in Holland; and as such you were present at international negotiations, and in particular, you negotiated with the representatives of Germany about economic questions concerning your country. You therefore knew Schacht?

HIRSCHFELD: Yes, I believe I first met Schacht in 1933 at the World Economic Conference in London.

M. DUBOST: During your negotiations with Schacht were you not led to ask him to restrict the rearmament of Germany which was ruining her credit?

HIRSCHFELD: If I am to answer this question, I must go back to a conversation in 1936, when I was in Berlin and saw Schacht in connection with trade treaty negotiations. During this conversation the international financial situation came up for discussion because there were various currency devaluations at that time affecting the French franc, the Swiss franc, and the Dutch guilder. The situation of German currency was also discussed in this connection. When I voiced my criticism, Schacht said, "How would you do it?"

I said I could only give him my private opinion. Then I asked if Germany—a question under discussion at that time—when taking up more international loans, would be ready to assume the consequences, as the interests and amortizations would imply a blocking of the importation of raw materials which would have an unfortunate effect on the labor market and on rearmament. Would Germany be willing to accept such consequences? If so, then, according to what was my private opinion in 1936, international loans might be discussed. If not, such a discussion would have little point.

Then Schacht gave me his opinion. Germany needed rearmament in order to be equal to the other great powers in international politics. Only on such a basis could one negotiate. And Schacht said to me in his own ironical pointed way, "I want a big and strong Germany; and to achieve that, I would even ally myself with the devil." In the course of this discussion, Schacht asked a few questions. First, he wanted to clear up the currency question, and secondly, he considered the colonial question important.

Regarding the colonial question, he said to me that in his opinion it was possible for Germany to take over colonies again and that she would accept the responsibility not to arm these colonies and not to set up any naval bases there. If such a policy was to be adopted, he believed that German economic and foreign policy might be reoriented. In this connection Schacht told me that he did not approve of the anti-Semitic tendencies then prevalent in Germany. He gave me examples of his attitude toward anti-Semitism and how he rejected it. I may add one example here that he gave me, his conversation with a certain Klagges, who was Prime Minister of Brunswick, and who made Hitler a German citizen.

M. DUBOST: That is of no interest to me. Schacht told you he had defended the Jews.

Now, as to the General Staff, was it not the German General Staff who gave the order to have raids carried out in Rotterdam?

DR. HANS LATERNSER (Counsel for General Staff and High Command of German Armed Forces): Mr. President, if I understood the question correctly, the witness is to be questioned about the charges against the General Staff and the OKW. I object to this question for the following reasons . . .

THE PRESIDENT: You go too fast. Do you not see the light?

DR. LATERNSER: As defense counsel for the General Staff and the OKW, I was prohibited by a court decision promulgated on 8 June to question or cross-examine any witnesses. The same ought to apply to the Prosecution. If I am not allowed to question witnesses, then the Prosecution must not be allowed to question them either since the rules must be the same for Prosecution and Defense.

M. DUBOST: I will forego my question.

THE PRESIDENT: I did not hear what you said, M. Dubost.

M. DUBOST: I said, Mr. President, that I would forego my question about the General Staff; and I have two more questions about Seyss-Inquart.

THE PRESIDENT: Well, just one moment—go on, M. Dubost.

M. DUBOST: Did Seyss-Inquart give the order to have raids carried out in all the large Dutch cities?

HIRSCHFELD: Not to my knowledge.

M. DUBOST: Who gave the order for these roundups to be carried out? Who was it?

HIRSCHFELD: These raids were carried out by the German Armed Forces. I do not know who gave the orders. It is only known that in Rotterdam, when these raids—I believe it was on 11 November 1944—were carried out, the divisional commander in Rotterdam made a speech in the town hall on the subject and organized this raid.

M. DUBOST: But didn't Seyss-Inquart have orphan children from the hospitals taken away for work in Germany?

HIRSCHFELD: The question is not clear.

M. DUBOST: Was it Seyss-Inquart who had orphan children seized and sent to work in the service of Germany?

HIRSCHFELD: From my own experience I know nothing about this.

M. DUBOST: Were orphan children compelled to serve in certain of the SS units, on Seyss-Inquart's orders?

HIRSCHFELD: I know that the SS in the Netherlands recruited soldiers. As far as I know from the newspapers, bulletins, and handbills, it was always done by the SS as such.

M. DUBOST: Who pledged himself not to use chemical products made in Holland for war? Was it Seyss-Inquart who had pledged himself not to do so?

HIRSCHFELD: I beg your pardon?

M. DUBOST: Who had pledged himself not to use chemical products made in Holland for warfare and to have them reserved exclusively for Dutch agricultural purposes?

HIRSCHFELD: This is the question of the nitrogen fertilizer?

M. DUBOST: Yes.

HIRSCHFELD: With regard to the nitrogen fertilizer, the promise was made from the beginning that the nitrogen fertilizer industries in the Netherlands should only produce artificial fertilizers. This was done until about the middle of August 1944, when instructions came that the nitrogen fertilizer industry was to change its production over to explosives. These instructions had been issued by an office of the Reich Commissioner. It was signed by a certain Herr Brocke. Thereupon, after I had spoken to an official of the industry, I attempted to speak to Seyss-Inquart personally on this matter and to intervene. I was given the answer by his adjutant that he had already made his decision and that I could establish contact with Herr Fiebig, the representative of Speer in the Netherlands. I discussed the matter with Herr Fiebig and told him that Netherlands industry and Netherlands labor could not work on explosives. Thereupon I was told . . .

THE PRESIDENT: M. Dubost, cannot this question be answered a little more shortly? The question is, did Seyss-Inquart promise that chemicals should be used, I suppose, on the land in Holland and not used for purposes in the Reich? Isn't that the question?

M. DUBOST: You have heard what Mr. President has said. Try to answer more briefly.

HIRSCHFELD: We had the promise that only artificial fertilizer would be produced. Then the demand was made to produce explosives.

THE PRESIDENT: M. Dubost, we do not want it all again. Can't you get the question answered?

M. DUBOST: I did not hear the answer of the witness, Mr. President. It did not come through.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

M. DUBOST: With the permission of the Tribunal, I shall ask the witness one more question.

Witness, do you know under what conditions and for what reasons the newspaper published in The Hague was destroyed by the agencies of the Reich Commissioner?

HIRSCHFELD: Yes.

M. DUBOST: Can you tell us?

HIRSCHFELD: Yes. The newspaper published in The Hague was destroyed because the employees of this newspaper refused to publish an article which spoke against the railroad strike—an article which had been compiled by the information chief of the Reich Commissioner. That was the reason for refusing to publish it.

M. DUBOST: Yes. It was destroyed by means of dynamite, was it not? The buildings and machinery were blown up, were they not?

HIRSCHFELD: The equipment was blown up with dynamite.

DR. STEINBAUER: I have no further questions to put to the witness.

THE PRESIDENT: The witness can retire.

DR. STEINBAUER: Now, with the permission of the High Tribunal, I should like to call my last witness to the witness stand, Ernst Schwebel.

[The witness Schwebel took the stand.]

THE PRESIDENT: Will you state your full name, please?

ERNST AUGUST SCHWEBEL (Witness): Ernst August Schwebel.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. STEINBAUER: Witness, what functions did you have before you assumed service in the Netherlands?

SCHWEBEL: I was Oberverwaltungsgerichtsrat at the Prussian Administrative Court in Berlin.

DR. STEINBAUER: When did you come to the Netherlands?

SCHWEBEL: On 18 May 1940.

DR. STEINBAUER: Is it true that, beginning with June 1940, you were the delegate or plenipotentiary of the Reich Commissioner in the province of South Holland, including the cities of The Hague and Rotterdam?

SCHWEBEL: Yes.

DR. STEINBAUER: In this capacity, as plenipotentiary for this province, did you have constant contact with the Dutch administrative authorities in this province and with the local authorities?

SCHWEBEL: Yes.

DR. STEINBAUER: Do you know how many of the former mayors in the province were left in their office?

SCHWEBEL: At the end, about one-half to two-thirds.

DR. STEINBAUER: Did the Reich Commissioner replace and change many of the officials of the province and of the local government?

SCHWEBEL: No, he made very few changes. Shall I discuss these changes?

DR. STEINBAUER: Yes, but briefly. Perhaps you can just cite the reasons for the changes.

THE PRESIDENT: Dr. Steinbauer, the changes have already been stated by other witnesses, have they not, and have not been cross-examined to. Is not that right? Did not Seyss-Inquart state the changes, and they were not cross-examined to?

DR. STEINBAUER: Then I shall turn to another question.

[Turning to the witness.] Is it true that in the second half of the year 1944 a state of emergency was declared?

SCHWEBEL: Yes, on 4 September.

DR. STEINBAUER: And the executive powers were turned over to the Armed Forces within a radius of 30 kilometers?

SCHWEBEL: Yes, but this transfer did not take place due to the regulation declaring this emergency state but as a result of a special military regulation.

DR. STEINBAUER: Due to military developments?

SCHWEBEL: Yes.

DR. STEINBAUER: Is it true that at the beginning of the year 1945 special Kommandos of the Reichsführer SS Himmler began to place time bombs in the public buildings of your province in case of an evacuation of this territory?

SCHWEBEL: As far as these special Kommandos of Himmler's were concerned, I know nothing about them. I know only one case in which an Oberleutnant appeared, but I believe that that was prior to the time you mentioned. He wanted to take such steps. I immediately got in touch with the Reich Commissioner and the military commander, and I learned that none of these gentlemen knew about this. Thereupon, at the request of the

Reich Commissioner, this Oberleutnant was told to cease his activity, to remove the bombs which he had already planted, and to leave immediately. I know of no other cases like that.

DR. STEINBAUER: Do you know that difficulties arose in Gouda as a result of the so-called "Wehrfähige ins Reich" drive, meaning that these who were fit for military service should be taken into the Reich?

SCHWEBEL: Yes; the Armed Forces was carrying through this drive at the time and with them a deputy of Minister Goebbels in his capacity as Reich Delegate for Total War Effort. They set up special agencies in Gouda and in two other places in the province. The director of the Gouda office carried these duties out in an improper way—rather harshly. Thereupon I discussed this matter with the Reich Commissioner, and he immediately got in touch with the commanding general and had this officer dismissed on the spot.

DR. STEINBAUER: Do you know anything about the extent of the resistance movement in your province?

SCHWEBEL: The resistance movement was fought by the Security Police in connection with the Armed Forces. What I know is not from my own experience in my administrative post, but knowledge I received through my connection with the agencies. Thereby I know that the resistance movement approached 50,000, as an estimate. These were people who might be counted as such. By that I do not mean that they were people who were organized in groups or in permanent action.

DR. STEINBAUER: Do you know that the Reich Commissioner started a food drive for 250,000 Dutch children?

SCHWEBEL: Yes, I know that he initiated this drive.

DR. STEINBAUER: You were an eye and ear witness to the attempt on the part of Seyss-Inquart to end the war quickly. Will you tell us briefly how connections were established with the Chief of Staff of General Eisenhower?

SCHWEBEL: At the beginning of April 1945 a M. Van der Vlugt approached me. He was the leader of the so-called IKO. That was an interdenominational organization to assist in the food problems.

DR. STEINBAUER: Witness, please speak a little more slowly and clearly. I cannot understand you even in German.

SCHWEBEL: I was approached by M. Van der Vlugt, who was the director of an interchurch group whose purpose was to supply the population with special foodstuffs. I knew him for that reason. He told me that he was acting on behalf of the Dutch Government in London. He asked me whether the Reich Commissioner would be ready to negotiate with him briefly on three questions:

1. A more extensive food supply for the Netherlands people through the Allies,

2. The stopping of flooding, and

3. The cessation of the fight against the resistance movement.

I immediately got in touch with the Reich Commissioner and he immediately declared himself ready to enter into discussions. Then, 2 days after that, we dealt with M. Van der Vlugt and another representative . . .

THE PRESIDENT: Witness, the yellow light means that you are going too fast, you see. So when you see the yellow light go a little more slowly.

SCHWEBEL: Yes, Sir.

THE PRESIDENT: You were telling us what Seyss-Inquart did.

SCHWEBEL: Yes. Seyss-Inquart declared himself ready to negotiate about these questions immediately. A discussion then took place between us and M. Van der Vlugt and another representative of the Dutch Government in London. That was Jonkheer Six. This discussion took place among the four of us.

On this occasion we agreed first of all about one point, to the effect that any combating of the resistance movement was definitely to be stopped immediately; and the resistance group, on its part, undertook to dispense with sabotage.

Secondly, the Reich Commissioner declared himself ready to give his permission to a generous food supply for the population on the part of the Allies and to stop the floodings. However, there were to be more detailed negotiations in this respect.

The result of this discussion was communicated to London and I brought two Dutchmen through one part of the front line as truce officers. Then, after various negotiations had been going on for some time, we received an inquiry from London as to whether the Reich Commissioner was ready to negotiate with the Commander-in-Chief, General Eisenhower, and deal with him about these questions. The immediate answer was "yes." Thereupon, first of all, I crossed the front line on 28 April at Amersfoort, and there I briefly negotiated with General Sir Francis Gengard, who was the Chief of Staff of Field Marshal Montgomery, and . . .

THE PRESIDENT: You do not need any more detail about it, do you?

SCHWEBEL: . . . and in this discussion with Sir Francis Gengard we agreed that another discussion was to take place 2 days later between . . .

DR. STEINBAUER: Witness, we are not really concerned with the details. We are concerned with the results of this conversation, and how it worked out in the interests of the Dutch population.

SCHWEBEL: Yes. This discussion took place on 30 April, between the Reich Commissioner and the Chief of Staff of General Eisenhower, who was General Bedell Smith. In this discussion the Reich Commissioner agreed completely to the wishes of General Bedell Smith that there should be a very generous food supply for the Dutch population.

THE PRESIDENT: If he said he agreed with the demands of General Bedell Smith, surely that is all you want, isn't it?

DR. STEINBAUER: Yes, that is quite sufficient.

[Turning to the witness.] Through these negotiations—I would like to ask you—the war was ended 2 months earlier, was it not?

SCHWEBEL: One cannot say that exactly. The situation was as follows. For the Dutch population, of course, the war ended, practically speaking, on that day, because the supplies that could be carried by air, over highways, over canals, rivers, and by sea to Rotterdam, were so generous. In order to make these transports possible, an armistice had to be arranged from place to place, so that in fact, though not formally, we had a general armistice and the population at that time immediately benefited by it.

DR. STEINBAUER: Mr. President, I have no further questions to ask this witness.

SCHWEBEL: May I just make a few remarks, Mr. President?

THE PRESIDENT: I think not. If counsel has finished examining you, we do not want any more remarks.

Do any other counsel wish to ask questions?

Is there any cross-examination?

M. DEBENEST: Witness, you spoke a short while ago of the negotiations which you undertook with delegates of the London Government. Are you aware of the fact that these delegates, before undertaking the negotiations with the Reich Commissioner in April 1945, laid down as a condition that no more people would be shot because of attacks against any German civil or military authority unless a court sentence had first been pronounced?

SCHWEBEL: Yes.

M. DEBENEST: As a further question did those delegates not request the Reich Commissioner whether the SS would conform to the conditions of an agreement which would put an end to hostilities?

SCHWEBEL: That also took place. After that time, nothing more was undertaken against the resistance movement.

M. DEBENEST: Very good. Is it correct to say that the Reich Commissioner replied that in his capacity as Obergruppenführer of the SS he was in a position to force the SS to observe the conditions of this agreement and that he could answer for it?

SCHWEBEL: An agreement in its true sense—all these conversations were gentlemen's agreements . . .

M. DEBENEST: Wait a minute. No, I am asking you whether the Reich Commissioner made that reply to the negotiators, that is, the delegates of the London Government?

SCHWEBEL: He said he was Obergruppenführer of the SS as well, and in that capacity he was able to see to it that the SS would comply with this agreement.

M. DEBENEST: Thank you. The last question is this: Did you know Kiehl? He was an official in the Reich Commissariat.

SCHWEBEL: Kiehl? Yes, I knew him.

M. DEBENEST: Didn't he give instructions to flood the Wieringer Sea in April 1945?

SCHWEBEL: Herr Kiehl, to my knowledge, did not give any instructions; he could not do so. Herr Kiehl was an expert on waterworks, and he was a very good expert. But orders for the flooding could be given only by the highest military authority, and that was Generaloberst Blaskowitz.

DR. LATERNSER: Mr. President, I object to this manner of questioning the witness. The Prosecution is again questioning this witness in order to charge the General Staff and the OKW. In the objection I mentioned previously I said that if I must not question the witnesses with a view to exoneration, the same must apply to the Prosecution with regard to incriminating questions. I ask that the last statement be stricken from the record.

M. DEBENEST: I beg your pardon.

THE PRESIDENT: M. Debenest?

M. DEBENEST: Mr. President, I merely wanted to say that if I ask this question, it is based on the information that was given to me. There is no question of the Army; but of instructions that were given by a civil servant of the Reich Commissioner, and therefore originating from the Reich Commissariat. Therefore, I do not understand the interference of the defense counsel. There is no question of the Army and I am completely ignorant as to whether the witness is going to tell me whether the Army was responsible or an office of the Reich Commissioner, when I was talking of an official of the Reich Commissioner.

THE PRESIDENT: Yes. You may ask the question.

M. DEBENEST: Will you proceed?

SCHWEBEL: Herr Kiehl was the hydrostatic expert for the Reich Commissioner; but at the same time, he was a hydrostatic expert under the military commander. He was consulted by both authorities as an expert only. He was a very fine expert. But nobody had given him any right to give instructions . . .

M. DEBENEST: Please, do not make any speeches; answer directly. "Yes" or "no," did Kiehl transmit the order to flood the Wieringer Sea?

SCHWEBEL: But I must say how it was! Kiehl? No. He could not have done that.

M. DEBENEST: I am not asking you whether he gave the order; I am asking whether he merely transmitted this order.

SCHWEBEL: I know absolutely nothing about that. I do not know how far Kiehl was involved in this order.

M. DEBENEST: That is sufficient.

What was the interest at that time in flooding the Wieringer Sea? Did not people think that the war was over?

SCHWEBEL: No. When the Wieringer Sea—the Wieringer Polder—was flooded, the war had not yet ended and these agreements had not been concluded either. When the Wieringer Polder was flooded—and I found this out later from military men—there was the danger that an aerial landing on the terrain of the Wieringer Sea would take place, which might place the dike in the hands of the enemy, giving them access to Friesland and North Holland. That was the reason why the military authorities considered this flooding necessary. That is what I was told.

M. DEBENEST: But at that moment in Holland wasn't the war considered as being lost for Germany?

SCHWEBEL: No. At that time, it was not considered lost. At any rate, our Army had, at that time, the order to defend us which it had to carry out. There was the danger that this landing would take place.

M. DEBENEST: I have finished, Mr. President.

DR. STEINBAUER: I would not have had to put another question to you if the French prosecutor had not broached a certain subject. What did General Smith tell you about the flooding of the Wieringer Sea?

SCHWEBEL: General Smith said toward the end of the negotiation that any flooding that had been undertaken up to that time could be justified on the basis of military necessity. But no more was to be undertaken from that moment.

DR. STEINBAUER: Was any undertaken after that?

SCHWEBEL: No, none was undertaken after that.

DR. STEINBAUER: Mr. President, I have no further questions to ask this witness.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

DR. STEINBAUER: Mr. President, with this I have concluded my examination of witnesses. Now I should like to refer to those documents contained in my document books and which I have submitted to the Tribunal. I was notified that Document Book Number 3 has been submitted to the Tribunal, and to conclude my case I should like to submit another document, as Number Seyss-Inquart-91, concerning the Apostolic letter of the Catholic bishops on the plebiscite in Austria. In this statement, reference is made to the attitude of Gauleiter Bürckel. We can gather from it that the persecution of the Churches cannot be charged to Seyss-Inquart, but rather the responsibility is to be placed on Bürckel. In order to save time, I should like to ask that the Tribunal take judicial notice of this document without my reading it, and I conclude herewith my presentation of evidence on the case of Seyss-Inquart.

THE PRESIDENT: Dr. Steinbauer, have you offered all the documents that you want to offer in your books? Have you offered them as evidence?

DR. STEINBAUER: I did not understand the question.

THE PRESIDENT: Have you offered all the documents that you want to offer as evidence and given them exhibit numbers?

DR. STEINBAUER: Yes, Mr. President. Only a few affidavits are missing, affidavits which were admitted by the High Tribunal: Völkers', Bolle's, and Rauter's. I hope that we shall have them within a short time.

THE PRESIDENT: Well, you see, you must offer each of these documents as evidence; you must say so. Merely putting them in the book does not offer them as evidence; and, therefore, you must offer these things to us as evidence, if you wish to do so, giving them the numbers. You can offer them all together, saying you offer . . .

DR. STEINBAUER: Yes, Mr. President.

THE PRESIDENT: Do you wish to offer your Documents Numbers 1 to—I do not know what the last number is; 105 seems to be the last one.

DR. STEINBAUER: Yes, Mr. President. I ask that all numbers in my three document books be included, up to 107.

THE PRESIDENT: Dr. Steinbauer, are the numbers given in the books the exhibit numbers which you wish to give to the documents?

DR. STEINBAUER: Yes, Mr. President. They are in numerical order and they are found in that order in my document book.

THE PRESIDENT: You wish, then, to offer Numbers 1 to—whatever the last number is, as evidence. Is that right?

DR. STEINBAUER: Yes, Mr. President.

THE PRESIDENT: You offered some in the course of your presentation of the witnesses.

DR. STEINBAUER: Some of them I submitted and quoted according to the numbers given in my document book.

THE PRESIDENT: You now wish, then, to offer the remainder?

DR. STEINBAUER: Yes, the remainder as well.

THE PRESIDENT: Under the numbers which they bear in your document book?

DR. STEINBAUER: Yes.

THE PRESIDENT: And you are offering all the originals under those numbers?

DR. STEINBAUER: Insofar as they are in my possession and I can say upon oath that the extracts tally with the books.

THE PRESIDENT: You have certified that they are true copies of the originals in accordance with the Tribunal's rules?

DR. STEINBAUER: Yes.

THE PRESIDENT: Very well.

DR. HEINZ FRITZ (Counsel for Defendant Fritzsche): Mr. President, I ask the permission of the High Tribunal that the Defendant Fritzsche be absent Monday and Tuesday of next week. He requires this time for the preparation of his defense.

THE PRESIDENT: Certainly.

DR. FLÄCHSNER: Mr. President, I wanted to put the same request on behalf of my client, as he will be in the witness box immediately after Von Papen, who is the next, and I ask that he have permission to be absent Monday or Tuesday.

THE PRESIDENT: Yes.

DR. LATERNSER: Mr. President, I shall only take a little of the Tribunal's time, but I must make a motion which is particularly important to me, a motion which concerns procedure; and I should like to give the reasons for my motion.

I move that the Tribunal, first of all, rescind the resolution given on 8 June 1946, and secondly . . .

THE PRESIDENT: Dr. Laternser, if your motion is an important motion, it should be in writing. If it is not in writing, it must be put in writing. You know perfectly well that is the rule of the Tribunal.

DR. LATERNSER: Mr. President, it is very important to me that this motion should appear in the record. May I continue?

THE PRESIDENT: But, Dr. Laternser, it will appear in the record if you make the motion in writing. You have been here for many months and you know perfectly well what the rule of the Tribunal is, that motions be made in writing.

DR. LATERNSER: Yes, but since we are concerned with a motion which applies to procedure and which applies to a resolution announced by word of mouth, I believe I am justified in putting my motion in this manner.

THE PRESIDENT: No, the Tribunal does not think so. The Tribunal would wish to have your motion in writing in accordance with the rule of the Tribunal.

Now the Tribunal will continue with the case against the Defendant Von Papen, which is, I believe, the next.

DR. KUBUSCHOK: I am beginning with my presentation of evidence on behalf of my client, Von Papen, by calling the Defendant Von Papen as a witness.

[The Defendant Von Papen took the stand.]

THE PRESIDENT: Will you state your full name, please?

FRANZ VON PAPEN (Defendant): Franz von Papen.

THE PRESIDENT: Will you repeat the oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The defendant repeated the oath.]

THE PRESIDENT: You may sit down.

DR. KUBUSCHOK: Please give the High Tribunal, briefly, a picture of your life, especially from the time you entered politics.

VON PAPEN: In order to describe my life briefly, I shall emphasize only such points as are essential for the High Tribunal to form a judgment of my personality and how they influenced my life and my political attitude and opinion.

I was born on soil which has been in the possession of my family for 900 years. I grew up with conservative principles which unite a man most closely to his own folk and his native soil, and as my

family has always been a strong supporter of the Church, I of course grew up in this tradition as well.

As the second son I was destined for a military career. At the age of 18 I became a lieutenant in a cavalry regiment and I went . . .

THE PRESIDENT: I don't think you gave us the date of your birth.

DR. KUBUSCHOK: Please give the date of your birth.

VON PAPEN: The date of my birth is 29 October 1879.

THE PRESIDENT: You have told us you joined a cavalry regiment at the age of 18.

VON PAPEN: Important for my development was my marriage with the daughter of a Saar industrialist, Geheimrat Von Boch. The relatives of this family brought me in contact with many French and Belgian families, and in this way I acquired an intimate knowledge of the spiritual and cultural factors of these neighboring countries, which made a very strong impression on me at the time. From that time on, that is from 1905, I have been convinced of how wrong a certain political attitude can be, namely, that France and Germany should be condemned to consider themselves eternal enemies. I felt how much these two peoples had to offer each other on a mutual basis, provided their peaceful development was not disturbed.

In the years that followed I graduated from the Kriegsakademie (War Academy), and in 1913, after training for 5 years, I was taken into the General Staff. At the end of 1913, at the command of His Imperial Majesty, I was appointed military attaché in Washington and Mexico. In this capacity, in the summer of 1914, I accompanied the U.S.A. Expeditionary Corps, which was dispatched to Vera Cruz as a result of the incident at Tampico. In Mexico, I was surprised by the outbreak of the first World War. Until the end of 1915 I remained at my post in Washington.

This period is of decisive significance for my political life. Our strife, carried on with legal methods, against the unilateral supplying of our enemies with war materials, led to heated polemics and propaganda. This propaganda, which was fostered by the enemy, tried by all means to cast suspicion upon the military attachés of Germany, accusing them of illegal acts and especially of having organized acts of sabotage.

At the end of 1915 I left the United States. I regret to say that I never tried to rectify and correct this false propaganda; but this propaganda followed me until the thirties and even until today, and has impressed its stamp upon me. In order to cite just one

example, even after 1931, the Lehigh Valley Company stated before the Mixed Claims Commission that their claim of $ 50,000,000 against the German Reich was justified, since I, the German military attaché, had caused an explosion which had taken place in the year 1917, 2 years after I had left the United States.

I am just mentioning this fact, Mr. President, since this propaganda honored me with titles such as "master spy," "chief plotter," and other pretty names; for this propaganda was the background for the judging of my personality, as I found out in 1932 when I entered public life.

THE PRESIDENT: Would that be a convenient time to break off?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: If it please the Tribunal, the report is made that the Defendants Funk and Speer are absent.

THE PRESIDENT: Yes, Dr. Kubuschok.

DR. KUBUSCHOK: Witness, we stopped when you were talking about the formation of public opinion concerning you personally. Please continue telling us of your career.

VON PAPEN: I had spoken about the propaganda about myself which was carried on in the United States at the time of the first World War. No effort was in fact ever made to investigate whether this opinion was true or false. What I was able to accomplish in those years, that is, the fact that I opposed sabotage and fought against submarine warfare, never became known.

This propaganda was public defamation, and it reached its height in 1941 in a pamphlet published in New York, with the beautiful title "The Devil in Top Hat." It repeats all these fairy stories without criticism, and adds new ones. Thus a so-called public opinion was formed about me which, I believe, gives a completely distorted picture of my character, my opinions, and above all my motives during the period from 1932 to 1945. I ask the Tribunal to keep in mind these psychological associations as I attempt to give now a true picture of my thoughts and my acts.

After returning to Germany in 1916 I did my duty as a soldier, as a battalion commander and as a General Staff officer in the war in France. In 1917 I became Chief of the Operational Section of Army Group Falkenhayn in Turkey. When Falkenhayn was recalled in 1918, I became Chief of the General Staff of the Fourth Turkish Army until the Armistice.

Perhaps I may recall briefly—after so many bad things have been said about me by the world—an episode which shows that I was able to do something useful for the history of humanity. On 8 December 1918, after a hard struggle with the German and Turkish headquarters, I succeeded in getting Falkenhayn to evacuate Jerusalem. Because of this decision the city was not shelled or destroyed by the British Army.

THE PRESIDENT: The translation came through to me, I thought, the 8th of December 1918. That must have been 1917.

DR. KUBUSCHOK: No, My Lord, 1918.

VON PAPEN: 8 December 1918.

When in November 1918 I was negotiating with Ataturk about the evacuation of the German troops, we received the news of the

collapse of the German armies and the abdication of the German Kaiser. This fact meant for me not only the loss of the war, a whole world had collapsed for me. The German Reich had collapsed after a thousand years of development, and everything that we had believed in was shrouded in the mists of the future. At this juncture I decided to face the issue.

After my return to Germany, I asked for and received my release from the Army. I went back to my home where I lived on a modest agricultural estate. There I was on traditional soil and devoted myself to home tasks. Before long my farmer friends entrusted me with the administration of their community affairs. They elected me honorary mayor and in 1923 they sent me to the Prussian Parliament.

When I was requested to do this, I decided not to join the Right, the German National Party, but the Center Party. This decision was influenced by my conviction that in this party I would be able to do much more in making adjustments in the social sphere than among the Conservatives. At the same time this party represented the principles of a Christian concept of the State.

The 8 years in which I belonged to Parliament were filled with struggles for the internal recovery and strengthening of the German Republic. In the Center Party I represented the conservative ideas of my agricultural electors. I endeavored to make this party, which in Prussia had formed a coalition with the Left, form a coalition with the Right also. Thus I wanted to help create an outlet for the tensions out of which National Socialism was really born. Also, into the same period fall my efforts to remove the discriminations against Germany through the numerous terms of the Versailles Treaty, and that by way of reaching a better understanding with the French people. I became a member of the German-French Study Committee, a committee founded by the Luxembourg industrialist Meirisch, comprising a large number of outstanding men of both countries. Close relations and conversations also united me with the veterans' organizations of both countries, on the French side with the well-known leader of the Gueules Cassées, Colonel Piccat. I took an active part in the congresses of German-French Catholic circles which took place in Paris and Berlin. All these efforts had as their aim to place European peace on the basis of a deeper knowledge and closer co-operation of our two countries.

This realization of mine was further strengthened when I moved to the Saar in 1929 which at that time was, as is well-known, under international control. When in 1929 the Young Plan was accepted by Germany I asked Herr Stresemann to arrange with M. Briand a settlement of the Saar question without plebiscite, because I was always of the opinion that a candid solution of this

thorny question by both sides would leave less resentment and an increased sense of solidarity than a decision brought about by an election campaign carried on heatedly on both sides. Unfortunately, this did not come about.

Then in 1930 the great economic world crisis set in embracing victors and vanquished alike. Germany's new democratic regime was not able to cope with such a burden, and under the ever-increasing economic pressure and increasing internal tension, the Papen Cabinet was formed in the spring of 1932. Here starts the political development which I am pleased to be able to account for before the Tribunal. I should like to add a request to the Tribunal. The Tribunal has ruled that the defendants have to be brief because the Defendant Reich Marshal Göring has completely presented the history of National Socialism. I ask that it be taken into consideration that I am not speaking here for National Socialism. My defense will be that of the other Germany.

DR. KUBUSCHOK: In questioning the witness it will be necessary to go into the details of the events and the activities of the witness as Reich Chancellor in the year 1932. The Indictment covers the time from 1 June 1932, the date of the appointment of Herr Von Papen as Reich Chancellor. The Indictment sees in the conduct of his official activity as Reich Chancellor the preparation for Hitler's Government.

The defense will set forth that the Papen Government consistently fought for a new program, entirely independent of the ideas of National Socialism, a program representing Papen's own basic political ideas, to which he remained loyal in the following period also. As the Indictment . . .

THE PRESIDENT: It is not proper for a counsel to make a statement of that sort. You must elicit the evidence from the witness by questions; and the questions ought to be questions which are not leading questions, which do not suggest the answers. You are now telling us what the witness is going to say. We want to hear it from the witness.

DR. KUBUSCHOK: Mr. President, I wanted only to point out that this period of time before 1933 must also be discussed and I wish to ask for your indulgence. We shall . . .

THE PRESIDENT: We have not attempted to stop you from giving the evidence—from eliciting the evidence. Ask the witness. But you must not state the facts yourself.

DR. KUBUSCHOK: Witness, will you explain to the Court what the situation was in Germany when Hindenburg called upon you on 1 June 1932 to form a Cabinet?

VON PAPEN: Before I answer this question, will you please permit me, as one of the last Chancellors of the Reich, to make a brief statement on the Government directed by me? If and to what extent the Charter of the Tribunal, in our opinion, is compatible with the sovereignty of the Reich and its different governments, will later be expounded by one of the other counsels.

When the Prosecution deals with my activity as Reich Chancellor in 1932, I assume that this is done in order to get a clear, historically accurate picture of the developments and to form a judgment on my character as a whole. For this reason I will comment on this part of the accusation. However, I must state here emphatically that this Cabinet of 1932 governed, to the best of its knowledge and ability under the Constitution and under the emergency powers of the President, at a time of the most severe internal economic depression. It is a historical fact that the activity of my Cabinet would not justify the slightest suspicion of a crime in the sense of the Charter. I believe I must make this statement, My Lord, to uphold the integrity of my ministerial colleagues, and above all, the integrity of the President, Field Marshal Von Hindenburg, the last great historical figure of Germany.

As to your question: Dr. Brüning, my predecessor in office, was highly esteemed by all of us and had been welcomed with great expectations. During his period of office came the great economic crisis, the customs blockades by other countries, with production and trade almost completely at a standstill, with no foreign currency for the procurement of necessary raw materials, increasing unemployment, youth out on the streets, and the economic world depression leading to bankruptcy of the banks. Government was possible only through emergency decrees; that is, by one-sided legislative acts of the President. Support of the unemployed empties the Treasury, is unproductive, and is no solution. As a result of the wide-spread unemployment, the radical parties were increasing. The political splitting up of the German people reached its height. In the last Reichstag election there were 32 parties.

After the war we had all hoped that we might be able to build up an orderly democracy in Germany. The English democracy was our model, but the Weimar Constitution had given the German people a great number of rights which did not correspond to its political maturity. In 1932 it had long been clear that the Weimar Constitution made the mistake of giving the Government too little authority. I remind you that the forming of governments often took weeks because all parties wanted to participate.

In Prussia, the Social Democrats had ruled since 1919. They shared with the "Zentrum" in filling political offices in Prussia. The dualism between Prussia, the greatest of the provinces, and the

Reich was constantly increasing. My wish that Brüning should return to the old construction of Bismarck's, to be Reich Chancellor and at the same time Prime Minister of Prussia, in order to co-ordinate the policy of the greatest province with that of the Reich, was rejected by Brüning. In all these years, in the last years, nothing was done to restrain the ever-increasing National Socialist movement, that is to direct it into a politically responsible course.

The entire political confusion and the realization that something had to be done in order to make it possible for the Reich Government to govern and to make it more independent, forced Hindenburg to the decision to appoint a Cabinet independent of the parties, directed by experts. The members of this Cabinet of mine were all experts in their fields. Von Neurath was an old diplomat; the Minister of the Interior, Gall, was an old administrative official; the Agricultural Minister was general director of great agricultural societies; the Finance Minister was formerly Ministerial Director in his Ministry; the Railroad Director, Eltz, had been president of the board of directors of a railroad, and so forth.

DR. KUBUSCHOK: Did the intention to govern authoritatively bring about a struggle of the parties?

VON PAPEN: Field Marshal Hindenburg had great confidence in Brüning, but he did not forgive him for failing to succeed in winning over the rightist parties, which had elected Hindenburg for the first time in 1925, for his re-election as President in 1932. At that time Hindenburg had been elected over the determined opposition of the Left and the Center. Now, in 1932, he was to be elected precisely by these leftist parties who had opposed him, and against the Right.

Beside the great old soldier of the World War, the opposing candidate was an unknown steel-helmeted soldier. This, of course, hurt the Field Marshal deeply. I wish to point out that in the presidential election in 1932 Hitler had already received over 11 million votes, which was more than 30 percent of the total in the presidential election.

Why the President chose me as Chancellor, I do not know. I can only say that I myself did not lift a finger. The course of events was the following.

I am telling this, My Lord, in order to answer the charge that this formation of a Cabinet was the beginning of an intrigue and a conspiracy. On 26 May 1932 I was on my estate in the Saar. Herr Von Schleicher, the Defense Minister, called me up there and asked me to come to Berlin. On the evening of the 27th I arrived in Berlin. On the 28th I went to see Herr Von Schleicher. Herr

Von Schleicher said to me: "There is a Cabinet crisis; we are looking for a Chancellor." He discussed various personalities with me, and finally he said: "The President would like to have you." I was greatly surprised, and said as much. I then asked for time to think it over. On the next day I discussed the matter with my friends. On the 30th I went to see Herr Von Schleicher again. I said to him: "I have decided not to accept." Herr Von Schleicher said: "That won't do you any good, the President wants you under all circumstances." I answered Herr Von Schleicher: "The President probably has a wrong conception of the political forces which I would bring to him for this government; he probably thinks that the Center would support me politically. But that is out of the question."

On the afternoon of this day I went to see the head of the Center Party. I asked him and he said: "Herr Von Papen, do not accept the office; the party would immediately oppose you." I said: "Thank you, that is what I thought."

I then went to see Hindenburg and presented the situation to him. Hindenburg stood up and said: "I did not call you because I wanted the support of any party through you; I called you because I want a cabinet of independent men." Then he reminded me of my duty toward the fatherland. When I continued to contradict him, he said: "You cannot leave me, an old soldier, in the lurch when I need you." I said: "No, under these circumstances I will not leave you in the lurch; I will accept."

DR. KUBUSCHOK: As proof for that discussion . . .

THE PRESIDENT: Dr. Kubuschok, the Tribunal think this might be dealt with in slightly less detail. The facts could be stated with less detail.

DR. KUBUSCHOK: We will act accordingly.

As proof for the discussion with the Center Party I refer to Document Book 1, Document 1, Page 1. I submit Document Book 1 as Exhibit Number 1.

Witness, you have been accused of having intrigued against Brüning in some way. Is that true?

VON PAPEN: In no way. I have already said that I had a very high opinion of Dr. Brüning personally, and that from the day when Herr Von Schleicher called me in—that is, 3 days before my appointment—I never had the slightest idea of being appointed Brüning's successor.

DR. KUBUSCHOK: Did you previously talk to Hitler about the government to be formed by you?

VON PAPEN: No, that is a completely false imputation on the part of the Prosecution. The *History of the NSDAP* by Volz, in which that is stated—and that is Document 3463-PS—is a purely private work and was probably sponsored by Goebbels and his Ministry. I state that my government, according to the wish of the Reich President, was to be created by a *fait accompli,* without any negotiations with any party or the head of any party.

DR. KUBUSCHOK: You did not promise Hitler the dissolution of the Reichstag beforehand either?

VON PAPEN: This statement of the Prosecution is also untrue. I did not previously discuss the dissolution of the Reichstag with Hitler for the Reichstag was dissolved on 4 June, and I saw Hitler for the first time in my life 5 or 6 days later. The dissolution of the Reichstag, as such, was a matter of course, because the new Government wished to have the opinion of the electors on the new course and on the Government's program.

DR. KUBUSCHOK: What were the political aims of your Cabinet? Please state this briefly.

VON PAPEN: The central problem which occupied us was the economic one: The big economic crisis, and the $1^1/_2$ million unemployed young people, the 6 to 7 million completely unemployed, and the 12 to 13 million in part-time employment. Attempts of my predecessors to help with purely State means proved inadequate. They were a burden on finances and had no result. The aim of my Government, therefore, was to employ private economy to solve this problem. We wanted to bring the whole production machinery into working order again. With the investment of 2,200 million marks we wanted to put this process into operation and expected to return into the production process $1^3/_4$ million workers in the current year.

Such a program could not have been agreed upon with the parties. The political aim was to achieve, simultaneously with the reorganization of the economy, the practical co-operation of the strongest of the opposition parties, the NSDAP. That was the central problem of German internal policy. It had been shown, through National Socialist Government in Thuringia, in Brunswick, and in Oldenburg, that this attempt could be made without becoming exposed to the danger of revolutionary movements. I could hope, therefore, through a national and social program to find the approval of the Reichstag.

DR. KUBUSCHOK: For the Government's statement, I refer to Document 1, Exhibit 1, Pages 2 and 3.

You spoke of the solution of the social problem as the main task of your Government. Will you please explain briefly how you regarded the problem and how you attempted to solve it?

VON PAPEN: In no country in the world, I believe, was the problem of capital and labor as acute as it was in Germany, as a result of overindustrialization and alienation of the soil. The reason is known; I need not speak of it. However, one of the reasons, which is generally overlooked, was the German inflation which had destroyed all mobile fortunes in Germany. This inflation had deprived the middle class and the workers, who form the backbone of the nation, of their savings and fortunes and it had proletarianized the workers, tradesmen, and the middle class.

Simultaneously with the social processes in Germany, a new social order had arisen in our great neighboring country, the order of a classless society and the totalitarian state. The democratic powers of the world resisted the exportation of this system. They took protective measures in the economic field, but these protective measures, the "New Deal," and "Ottawa," weakened the German position all the more.

THE PRESIDENT: Dr. Kubuschok, I think the defendant must realize that this is all very familiar ground to the Tribunal, and it is not necessary to restate it in detail.

VON PAPEN: I only wanted to explain to the Tribunal that this social problem was the basis for the whole historical development.

DR. KUBUSCHOK: The question of the social problem is at the same time a question of the development of the NSDAP, and the witness is going to comment later from this point of view.

Witness, you said a little while ago that you had no contact with Hitler before the formation of the government. When did you see Hitler for the first time and what agreements did you reach?

VON PAPEN: I have already said that I saw Hitler for the first time on 9 or 10 June. The aim of the talk was to determine under what conditions Hitler would be willing to tolerate my Government. My program contained so many points in the social field that an approval of that program by the National Socialists was to be expected. Hitler's condition for such an approval of the Government program was the lifting of the ban on uniforms for the SS; that is, the political equalization of his party with the other parties.

I agreed to that at that time; all the more so as the ban of the SS by the Brüning Government was an obvious injustice. The SS, or rather the SA, had been prohibited; but the uniformed formations of the Socialists and the Communists, that is, the "Rotfront" and the "Reichsbanner," had not been prohibited.

The result of my promise to Hitler was that Hitler obligated himself to tolerate my Government.

DR. KUBUSCHOK: I should like to correct a mistake made by the witness. He spoke of the SS, meaning the SA. There was no SS at that time.

I refer to Document 1, Page 3, which is a statement of the President concerning the lifting of the ban against the SA. The President points out that he decreed the lifting of this ban under the express condition that there would be no more acts of violence in the future. He says furthermore that he was determined—that he would use all constitutional means at his disposal to act against all violations of any kind if this expectation were not fulfilled.

Will you, Witness, make a brief statement concerning your efforts, and the course of the Lausanne Conference in June 1932 which had such a great influence on the growth of the NSDAP?

VON PAPEN: I ask for permission to go somewhat more into detail about this conference, because the result was closely connected with the enormous increase of the NSDAP immediately thereafter. This conference had been prepared long beforehand, as is known. It was to abolish reparations.

But I went to Lausanne with many other aims and hopes. The abolition of reparations was, so to speak, a *cause jugée*. But what was necessary was to remove Germany's moral discomfort, if Europe was to return peacefully to normalcy. This moral dissatisfaction had many causes. Germany had become a "second-rate nation." It had been deprived of important attributes of its sovereignty: No military sovereignty; the Rhineland unprotected; the Corridor, the Saar, and others. I have already described the economic conditions. These economic and political difficulties helped advance political radicalism, and the extremists increased in every election.

If therefore help was to be forthcoming, then not merely the reparations question had to be solved—that was a negative help—but positive, moral aid was required. My program was the restoration of the sovereignty of the Reich. In the first place, the famous Article 231 of the Versailles Treaty was to be struck out. That was the article which stated Germany's sole responsibility for the war. Historians of all countries had long established that we were not the only ones responsible. In the second place, relations with France based on confidence were to be established.

THE PRESIDENT: Dr. Kubuschok, the Tribunal do not think that this really is very important for them.

VON PAPEN: I shall briefly . . .

DR. KUBUSCHOK: May I explain quite generally that the events of 1932, the internal and foreign political events, formed the key for judging the growth of the NSDAP which, after all, led to the 30th of January 1933. If we discuss certain questions here, we will be able to refer to them when we discuss the events of 1933. I believe we will thus save time. Therefore, I ask that a discussion of this period be permitted in somewhat greater detail.

VON PAPEN: I will make it as brief as possible, Mr. President.

THE PRESIDENT: I think we had better go on, as you suggest, from 1933. Is that not what you were suggesting, that you should go on to 1933, and then possibly come back to 1932, if it is necessary?

DR. KUBUSCHOK: No, that is not what I suggested. I said that the discussion of conditions in 1932 provides the key for the growth of the NSDAP and the formation of the Hitler Government.

THE PRESIDENT: Yes; but the defendant has been discussing the conditions of 1932 for a long time now. Surely we can get on to something which has something to do with the National Socialist Party, now.

VON PAPEN: I will come to that immediately, Mr. President. I wanted only to say that I took up these subjects at Lausanne and tried to bring about understanding for the internal situation in Germany. I negotiated with the French Prime Minister, M. Herriot, about the cancellation of that famous article. I negotiated a consultation pact with him, but nothing came of all this, for reasons which I do not want to discuss any further. The final result of the conference of Lausanne at any rate was negative, so that the elections which were subsequently held . . .

DR. KUBUSCHOK: What was your point of view in the armament question?

VON PAPEN: I had established my point of view in the armament question, which played a role even in the year 1933, already at that time in Lausanne. I had discussed it with the British Prime Minister, Mr. Macdonald, and M. Herriot. Later, in an interview, I discussed this point of view with M. Herriot, so that it is on record. It is Document 55. In this document I said that it was not a question of German rearmament, but a question of the fulfillment of the disarmament promise of the other nations. Nothing is said about German rearmament, but only about German equality and equal treatment for Germany.

I need not quote this document. It is in the hands of the Court, Document 55.

DR. KUBUSCHOK: I submit Document 55 as Exhibit 55, and further refer to Document 1, which has already been submitted, Page 9; and Document 6, which I submitted as Exhibit 3, Page 22.

VON PAPEN: At the conclusion of the Lausanne Conference, I told Macdonald and Herriot, "You must provide me with a foreign political success, for my Government is the last bourgeois government in Germany. After me there will be only extremists of the Right and the Left." But they did not believe me, and I returned from Lausanne with only partial success.

THE PRESIDENT: I think this would be a good time to break off.

[A recess was taken.]

DR. KUBUSCHOK: Witness, you said that the outcome of the Lausanne Conference did not come up to your expectations. Why did you, in spite of that, sign the Treaty of Lausanne?

VON PAPEN: In the first place, I had to sign it because otherwise the conference would have ended in a complete failure and Germany would have been confronted with an economic vacuum. We were faced also with the Reichstag election and I had to try to make the best of the situation.

DR. KUBUSCHOK: In connection with this question, I should like to submit Document Number 7, to become Exhibit Number Papen-4. This document is a statement by Von Papen, in the *Trierische Landeszeitung* of 12 July 1932, about Lausanne. I take the liberty of reading a short extract in which Papen says:

> "But just as little as we are unable to erase by a one-sided act the signatures given since 1918 by former governments, just as little was this possible with regard to the solemn obligations which were undertaken by the then governing parties in the name of the German people. The present Government simply had to liquidate a situation which had been created by all the former governments since the signing of the Versailles Treaty. The question as to whether this situation can be liquidated by Germany's denying the validity of her signature and thus, at the same time, placing herself outside the conception of cultural and other standards, must be answered with an emphatic 'no.'"

In mentioning this quotation, I should like to point out that this attitude under the then prevailing situation and especially in view of the propaganda by the NSDAP is especially noteworthy.

On 18 July 1932 the Reich Minister of the Interior decreed a general ban on demonstrations after, as you have already said, the ban on uniforms had been lifted for National Socialists on 16 June. What were the reasons for the new ban on demonstrations?

VON PAPEN: The condition under which Hindenburg had rescinded the ban on uniforms for the SA was not fulfilled. Election

campaigns became more and more radical and therefore I decided to suggest to the Reich President a decree prohibiting demonstrations. Contrary to the decree banning the uniforms, this decree applied to all parties equally. Therefore it did not only prohibit the SA, but all fighting formations of the other parties.

DR. KUBUSCHOK: Now I shall turn to the 20th of July 1932. The Prosecution calls your action on that date a *coup d'état.* The witness Severing has also fully elaborated on that point. What was the reason for your action on the 20th of July 1932?

VON PAPEN: The action was based on the necessity of restoring orderly conditions. I had received reports about the co-operation of the police department of the Prussian Ministry of the Interior with the Communists. The situation of the Reich Government in Berlin must in this case be specifically taken into consideration, and I do not know whether the High Tribunal is cognizant of the legal position. The Reich Government at Berlin was not an extra-territorial area like Washington, D. C., in the United States, but came within the police power of the Prussian State. My own protection, that is, the protection of the Reich Chancellor, lay in the hands of the Prussian police. If, therefore, combinations with the Communists were made in the Prussian Police Ministry, then this affected the security of the Reich Government. This action against the Prussian Government did by no means constitute an action against Socialism as such. Neither did a Nazification of the republican police take place, as the witness Severing testified here. The officials, with the exception of a few higher officials, remained completely unchanged. How I regarded the situation there, I made known to the German people in a radio speech on the evening of the 20th of July. The High Tribunal will find this speech in Document 1, Page 4. However, I shall forego the reading of this speech.

DR. KUBUSCHOK: I should further like to point to Document 2, which I wish to submit as Exhibit Number 5. I should like to point out, on Page 15, the part where the Defendant Von Papen gives his account about the necessity of this measure.

[Turning to the defendant.] Was this action of yours on the 20th of July brought before the highest German tribunal, the Reich Supreme Court, and was any decision made?

VON PAPEN: Yes. The Prussian Cabinet brought an action against the Reich Government before the Reich Supreme Court at Leipzig; there the matter was properly argued and judgment passed. This sentence upheld entirely the action of the Reich President. It is therefore impossible for the Prosecution to characterize this matter as a Putsch.

DR. KUBUSCHOK: I should like to call your attention to Document 8, which I wish to submit as Exhibit Number 6. This is an extract—I beg your pardon?

THE PRESIDENT: Dr. Kubuschok, is it necessary for you to give the document exhibits numbers different from the document numbers? You see, it becomes a little bit confusing. Each one of these documents has got, at the head of the document, a number; 1, 2, 3, and so forth, and they follow each other . . .

DR. KUBUSCHOK: I should like to acquiesce to the suggestion of the High Tribunal and retain the same number. Therefore, Document 5 shall become Exhibit Number 5.

THE PRESIDENT: That would be much less confusing, I think, if you could.

DR. KUBUSCHOK: Yes, indeed, My Lord. This Exhibit Number 5 is an extract from the judgment of the Reich Supreme Court, dated 25 October 1932. On Page 19, at the beginning, is the opinion which says that the decree of the Reich President of 20 July 1932 was entirely legal.

How did the Prussian Government, and specifically Prime Minister Braun, react to this judgment of the Supreme Court?

VON PAPEN: The Prussian Government and the Prussian Prime Minister absolutely accepted the judgment, which became apparent from the discussions which I personally had later on in October with the Prussian Prime Minister.

DR. KUBUSCHOK: Regarding the position taken by the Prussian Government, I should like to submit Document Number 86, which is contained in Volume III of my document book, which, however, because of technical difficulties, is not completely translated and cannot be submitted today.

Witness, on 29 July 1932 you had an interview with a United Press correspondent and you stated in detail your position on the armament problem. Since this topic is of special significance for your case and your defense, I should like to have you comment on this matter.

VON PAPEN: I should like to clarify my attitude on the armament question, for it is the same which I held at the time when I was Vice Chancellor in the Government of Hitler. I should like to refer to Document 1, which sets forth my interview for the United Press, and I will quote from Document Number 86, which is the radio speech which I made on 12 September. On that occasion I said:

"We want disarmament . . ."

DR. KUBUSCHOK: Perhaps, Witness, you could just give us the contents in a few words.

VON PAPEN: If the Tribunal would like to check on the contents of my speech, in Document 86 the Tribunal will find that I was speaking for disarmament and for peace. On that occasion I appealed to the major powers, and I would like to quote this sentence:

> "In these days Germany is undertaking a gigantic attempt, through the mobilization of her last internal reserves, to bring about work and social peace. That gives us a right to expect that the leading statesmen of the major powers, now, for their part, will decide to bring to an end the poisoning of foreign political relations through agreements which cannot be kept."

DR. KUBUSCHOK: On 31 July 1932 the Reichstag election took place. First of all, I should like to submit a diagram in which the election results of the various elections held in the years 1930 to 1933 are tabulated. This is Exhibit Number 98, which I hereby submit. From the figures shown there we can see the internal political development of Germany.

Witness, what was the result, and what were the political conclusions you drew from the result of the elections?

VON PAPEN: On 30 July, the eve of the elections, I spoke to the United States and I said:

> "The world does not realize that Germany is confronted with a civil war. The world did not help us to overcome our difficulties at Lausanne, and it is unbearable that 14 years after the end of the war there is no equality of rights for us."

The election of 31 July brought more than a doubling of the Nazi votes, from 6.4 million to 13.7 million votes, or 230 members of the Reichstag as against 110. The conclusions to be drawn from the results of this election were that no majority could be formed, from the extreme right to the Social Democrats, without the NSDAP. With that, the Party had achieved a parliamentary key position. The Prosecution is trying to ascribe the increase of the Nazi vote to the lifting of the ban on uniforms. That is an explanation which is altogether too simple. Actually, the ban on uniforms was lifted from 16 June till 18 July, for 1 month. And already 2 weeks prior to the election I had issued a decree prohibiting demonstrations. The real reason for the increase in the Nazi votes was the desperate economic situation of Germany and the fact of the general disappointment about the lack of foreign political successes at Lausanne.

DR. KUBUSCHOK: Now, what was your conclusion from the results of this election?

VON PAPEN: The conclusion I drew was the same opinion which I had held before. On the next day I gave an interview to the Associated Press, and through this interview I told the entire world:

"The National Socialists have to be given responsibility, and when that has been done we have to bring about a reform of the Constitution."

DR. KUBUSCHOK: Regarding these historical facts I refer to Exhibit Number 1 which has already been submitted, and especially to Pages 4, 5, and 6.

Witness, please tell the Tribunal briefly about your negotiations with Hitler.

VON PAPEN: As a result of this opinion of mine I had a long discussion with Hitler on 12 August. I impressed upon him the necessity of his participation, and my own readiness to resign as Chancellor in a few months if the co-operation should prove successful, and after Von Hindenburg had gained confidence in Hitler.

Of the political parties, the rightist parties, as is well known, had supported my Cabinet. The Center Party was in opposition. Now, after these elections, the Center Party wanted Hitler as Chancellor, but Hitler himself did not want to become the head of a majority government.

The correctness of my statements is shown in Document 1, Page 6, the first paragraph, last line. I quote:

"Kaas, the leader of the Center Party, demands a so-called total solution of this crisis by the full responsible participation of the former opposition in the Reich Government."

I made an offer to Hitler that he should enter my Cabinet as Vice Chancellor. Hitler declined. On the next day we continued with our negotiations in the presence of the Reich President.

Hitler voiced the demand to the Reich President to join the Government with his Movement, but only on condition that he himself be appointed Chancellor. And this may be seen in this document on Page 6.

DR. KUBUSCHOK: It is Document Number 1, Page 6, Your Honor.

VON PAPEN: The Reich President did not believe that he should transfer complete authority to Hitler and rejected his proposal. At this point our efforts of drawing National Socialism into a responsible government activity had failed.

DR. KUBUSCHOK: The Defendant Von Papen voiced his opinions about this in a speech at Munich, which can be found in the document book, Exhibit Number 1, Pages 10 and 11.

After the failure of these negotiations, the National Socialists entered into the most intense opposition against the Government. Did this in any way change your basic course?

VON PAPEN: The oppositional attitude of the Nazis against my Government did not change my basic course at all. I spoke fully about this matter at Münster on 28 August.

DR. KUBUSCHOK: *[Turning to the Tribunal.]* This speech may be found in Document Number 1, Exhibit Number 1, Page 7. And on this page I would also like to call your attention to a report on a judgment of a special court at Beuthen. There the first death sentence was passed on the basis of the terror decree of 9 August. This terror decree, with which the Prosecution wishes to incriminate the Defendant Von Papen, resulted in the death sentence against five National Socialists.

[Turning to the defendant.] On 4 September you issued an emergency decree to revitalize economy. As this decree is the nucleus of your Government's activity in the solution of economic problems, I should like to have you comment on this emergency decree.

VON PAPEN: I have already discussed this emergency decree and stated that it concerned a program involving 2,200 million Reichsmark with the aim of creating work for 1 3/4 million workers. We made this gigantic effort without increasing our foreign debt by a penny. It was, if I may characterize it in these words, the straining of our utmost and our last reserves of strength. The success became noticeable already in the first month through a decrease of 123,000 in the number of unemployed.

DR. KUBUSCHOK: In 1 month?

VON PAPEN: Yes, in 1 month.

DR. KUBUSCHOK: Within this general labor procurement program was rearmament contemplated?

VON PAPEN: Not at all. My Government did not spend a penny for rearmament.

DR. KUBUSCHOK: The details of this emergency decree may be found in Document 1, Pages 8 and 9.

Why was there another dissolution of the Reichstag on 12 September? What did you say about this on that evening over the radio?

VON PAPEN: The new Reichstag met according to the Constitution. My Government, as I have already said, could not obtain a majority; but the formation of any other government without Hitler was quite impossible. Therefore, I was justified in the hope

that this Reichstag would give my Government time to test itself, especially as I had submitted to it a comprehensive and decisive economic program. But just then something unexpected and unheard-of happened.

The thing that happened was, so to speak, the prostitution of the German Parliament. Herr Göring, the President of the German Reichstag, gave to the Communist delegate, Clara Zetkin, the floor for a vehement attack on my Government. When I, the responsible Chancellor of this Government, asked for the floor in order to give an account of what I wanted to do, I was refused permission to speak, and the Reichstag President asked for a vote on a motion of no confidence brought in by the Communists, the Socialists and the National Socialists. The fact of this concerted motion on the part of the three parties should really show what would have taken place in Germany if these three parties were to have ruled in Germany together, and should also show how imperative it was for me to try not to crowd National Socialism into the leftist wing, but to bring it into my Government instead.

I was forced to put the order for the dissolution of the Reichstag on the table, and to leave.

DR. KUBUSCHOK: These historic facts may be found in Document 1, Page 8, and in the document which I have already referred to without having submitted it, Document 86, Page 192.

In a speech in Munich on 12 October you also dealt with the question of reforming the Constitution. Please tell us briefly just what opinion you voiced on that occasion.

VON PAPEN: The reform of the Constitution, as I have already mentioned, was one of the most urgent aims of my Government. The reasons for it are set forth in this document, on Page 9. This reform was to include an electoral reform, in order to end the multiplicity of parties, and the creation of an upper House. Above all, it was to give the Government more authority and more opportunities to govern than was possible under the Weimar Constitution.

DR. KUBUSCHOK: As an explanation I should like to mention that the reform of the Constitution which was to do away with the conditions at that time—that Government measures were issued solely on the authority of Article 48, the emergency decree. To what extent this took place may be seen in Document 4, which gives a picture of the great number of emergency decrees which were issued.

Witness, on 6 November 1932 the election for the Reichstag took place. What was the election slogan of the Government and what was your opinion about the result?

VON PAPEN: Unfortunately, we had to vote once again. The program of my Government was the same as it had been before—that is, the endeavor to establish a new state leadership, a state leadership with the co-operation of an effective parliament with a government vested with strong authority.

In this manifesto to the electors of 4 November I addressed Hitler and I told him:

> "It is the exclusiveness of your Movement, your demand for everything or nothing, which the Reich President could not recognize and which led to his decision of 13 August. What is at stake today is this: The question is not whether this or that party leader occupies the Chancellor's chair, whether his name is Brüning, Hitler, or Von Papen, but rather that we meet on common ground so that the vital interests of the German people can be assured."

I hoped that through this Reichstag election the National Socialists whom I opposed would be weakened in such a way that this party would be squeezed out of the central parliamentary position.

DR. KUBUSCHOK: What was the result?

VON PAPEN: This result was not achieved. The National Socialists lost 34 seats, but that was not sufficient to crowd them out of their key position, for again the formation of a majority in the Reichstag from the Socialists to the extreme Right was possible only with Hitler; without him, no majority.

In order that we might be in a position to continue governing in a constitutional way, I tried once more to negotiate with the various parties and the National Socialists.

DR. KUBUSCHOK: Please give us a description of these negotiations.

VON PAPEN: These negotiations are interesting, and the Tribunal must be made familiar with them so that they can judge the events of 30 January 1933.

First of all, I tried to clear the situation with those parties that were in opposition to my Government, and especially with the Social Democrats and with the Center Party. The Center Party took an adverse position. They desired a majority government with Hitler, but Hitler did not wish to govern with a parliamentary majority. From Document 2, Page 13, we can see what the attitude of the Center Party was.

Since Hitler's collaboration in a coalition government was out of the question, I again turned to Hitler in order to ask him whether he was now ready to enter my Government. I did this

out of a sense of responsibility in order to achieve any sort of result at all; and, therefore, I wrote him the letter dated 13 November 1932, which is Document D-633, which was submitted by the Prosecution as an "undignified" document because, after all of my failures, I had once more turned to Hitler. In this letter I said:

> "I would consider it a violation of duty if I did not turn to you, in spite of everything; and I am of the opinion that the leader of such a great Movement, whose service to the country and the people I always appreciated despite much that I had to criticize, that this leader should not refuse to confer with the responsible statesman."

DR. KUBUSCHOK: Then on 8 November you again turned to the foreign press and spoke to them on foreign political matters . . .

VON PAPEN: May I interrupt you for a moment? I should like to add here, with regard to the opinion on the letter as voiced for the Prosecution by Mr. Barrington: It is customary in every parliamentary state that, if the leader of the government turns to the opposition in order to obtain its co-operation, he writes a courteous and cordial letter to the leader of the opposition; that he does not call him an ass. Therefore, I cannot quite see why these remarks of mine are characterized as lacking dignity.

DR. KUBUSCHOK: On 8 November you turned to the foreign press and spoke about the revision of the Versailles Treaty. Can you explain briefly the statement you made at that time?

VON PAPEN: I only mention the speech made to the representatives of the foreign press in order to show to the High Tribunal the frequency of my appeals to foreign countries—appeals to foreign countries, to the victorious powers—to urge them to undertake a moral reconciliation; for then, Gentlemen, the radical tendencies in Germany would have disappeared of their own accord.

DR. KUBUSCHOK: This speech before the foreign press will be found in Document 1, Pages 11 and 12.

What were the consequences of the failure of your negotiations with the party leaders?

VON PAPEN: The failure of my negotiations with the party leaders and Hitler led to my resignation on 17 November. I was instructed to carry on the affairs of the Government until a new government could be formed.

DR. KUBUSCHOK: What efforts were made by the Reich President, after your Cabinet resigned, towards forming a new government?

VON PAPEN: My resignation gave the Reich President the opportunity to try once more to form a parliamentary majority.

He immediately tried to do that and beginning on 18 November he received all the party leaders, from the Right to the Center; and on the 19th he received Hitler. The topic was: How can we form a parliamentary majority government? He instructed Hitler to form a majority government; Hitler would then be Chancellor.

On 23 November Göring presented Hitler's answer to Hindenburg; it was: "Hitler could not undertake the formation of a majority government."

On the 24th, Hindenburg received Monsignor Kaas, the leader of the Center Party. He declared that Hitler had not even tried to find out whether a majority government could be formed, but Monsignor Kaas promised the Reich President to try once more to form a majority government. On 25 November he reported to Hindenburg that the attempt had been in vain, that the leader of the Nazi faction, at that time Herr Frick, had stated that the Party would not be interested in such discussions. The result: The formation of a majority government with Hitler is impossible.

DR. KUBUSCHOK: Did other possibilities for a coalition present themselves? Were there other possibilities for a coalition?

VON PAPEN: No. There was only the possibility of a cabinet such as I had had, or a majority cabinet.

DR. KUBUSCHOK: With regard to these negotiations I should like to refer you to Document 2, Pages 14 and 15.

After the discussion between the Reich President and the party leaders had failed, a conference took place on 1 December between the Reich President and you and General Von Schleicher. This consultation is especially important for the future political development and has a considerable historical significance. Therefore I ask you to go into the details of this conversation.

VON PAPEN: The Field Marshal on 1 December asked General Von Schleicher and me to meet him for a conference. I should like to remark that previously no conversation between Herr Von Schleicher and myself about the possibilities for the formation of a future government had taken place. Herr Von Hindenburg asked us about our attitude; I set forth the following:

The attempt to include the Nazi movement into the Presidential Cabinet of Hindenburg had twice failed. Hitler equally refuses to form a majority government. On the other hand, he is exercising a tremendous amount of opposition and is trying to have all my decrees rescinded by the Reichstag. If therefore there is no possibility to form a parliamentary government or to include Hitler in our Government without making him Chancellor, then a state of emergency has arisen which requires extraordinary measures. Therefore, I proposed a recess of Parliament for several months

and immediate preparation of a constitutional reform bill later to be presented to the Reichstag or to a national assembly. This proposal involved a violation of the Constitution.

I emphasized that I knew how the great soldier and statesman cherished the sacredness of his oath, but my conscience led me to believe that a violation of the Constitution seemed to be justified in view of the extraordinary situation, for which the German Constitution provided no remedy.

Then Herr Von Schleicher spoke. He said:

"Field Marshal, I have a plan which will make it unnecessary for you to break your oath to the Constitution, if you are willing to put the Government into my hands. I hope that I will be able to obtain a parliamentary majority in the Reichstag by splitting the National Socialist Party."

During the discussion of this plan, I said that it was doubtful to me whether a splitting of the Party which had sworn loyalty to Hitler could be achieved. I reminded the Field Marshal of the fact that he should free himself of weak parliamentary majorities through a basic reform.

However, the proposals were thrown overboard through the solution offered by Schleicher. The solution offered by Schleicher was only a provisional matter, and a very doubtful one.

DR. KUBUSCHOK: What was the decision of the Reich President?

VON PAPEN: The decision of the Field Marshal was perhaps the most difficult that he had to make in his long life. Without giving any further reasons, he told me: "I have decided in favor of the solution of Herr Von Papen, and I request you to start immediately negotiations for the formation of a government to which I can give the instructions in accordance with your proposals." The conference was over.

DR. KUBUSCHOK: What did Herr Von Schleicher do then?

VON PAPEN: I exchanged only a few brief words with Herr Von Schleicher and tried to persuade him to recognize the decision that the Reich President had made. Herr Von Schleicher said "no."

Then, the same evening, I started discussions with several ministers with regard to the formation of a new government. These ministers told me, "The plan is excellent, but Herr Von Schleicher has told us that we will have a civil war and in that case the Reichswehr will not be in a position to keep law and order in the country."

I interrupted the discussion and called the Cabinet together the next morning, presenting the situation and informing them

of Hindenburg's decision. Then I asked Herr Von Schleicher to tell the Cabinet now why he believed that there would be a civil war and why the Reichswehr would not be in a position to keep law and order in the country. Herr Von Schleicher called on one of his General Staff officers to tell the Cabinet that this case had been considered from a practical and theoretical point of view and that they had come to the decision that the Reichswehr and the police were not in a position to keep law and order in the country. Then I said to the gentlemen: "This is a new situation which I have to report to the Reich President."

I went to Hindenburg and reported to him. Herr Von Hindenburg, deeply stirred about my report, said to me, "I am an old man and I cannot face a civil war of any sort in my country. If Herr Von Schleicher is of this opinion, then I must—as much as I regret—withdraw the task with which I charged you last night." With that, Herr Von Schleicher was appointed Chancellor on the conditions which he had offered to the Reich President at this meeting.

DR. KUBUSCHOK: Did Herr Von Schleicher offer you the post of Ambassador to Paris?

VON PAPEN: Herr Von Schleicher, who for a long time knew of my interest in German-French relations, asked me whether I wanted to become Ambassador in Paris. This would have been quite in accordance with my inclinations. But the Reich President objected to this, and . . .

THE PRESIDENT: Dr. Kubuschok, the Tribunal think that this is going in far too great detail into all this, all of which is known through history, and most of which we have heard before.

DR. KUBUSCHOK: Now we shall turn to the year 1933. On 4 January a conference between Hitler and you took place at the home of the banker, Schröder. The Prosecution is presenting this conference as the actual beginning of your common conspiracy. Please give the Tribunal a description of how this conference came about.

VON PAPEN: I was . . .

THE PRESIDENT: Dr. Kubuschok, we have been hearing for the whole of the afternoon the background of the conference. Surely we can hear of the conference now.

DR. KUBUSCHOK: The defendant is charged with the fact that he was the promoter of the negotiations, which supposedly started on 4 January, for the formation of the government formed on 30 January. The role which Von Papen played in it is of decisive importance. Therefore, I consider it necessary that he tells us briefly about the background . . .

THE PRESIDENT: The negotiations did not start on 4 January. The defendant told us earlier, about a couple of hours ago, that they started on 12 August 1932. The negotiations started earlier than this.

VON PAPEN: I may perhaps quite briefly say, Mr. President, what it concerns. This conference on 4 January, on the occasion of which the Prosecution asserts that I pledged myself to National Socialism, was a conference which took place on the initiative of Hitler. At this conference nothing was said about the overthrow of the Government of Von Schleicher; and there was nothing said about the formation of a government by Hitler, as it later actually took place on 30 January. We merely discussed the necessity for Hitler to decide to take a responsible part, not as Chancellor, but with his Party. And, My Lord, that I did not engineer this conference or have it called may be seen clearly from the statement of Herr Von Schröder, at whose home this conference took place.

DR. KUBUSCHOK: This may be seen from Document 9, Page 26.

Witness, you are accused of the fact that in this conference you discussed plans for the overthrow of the Cabinet of Von Schleicher. Did you keep the fact of this conference from Herr Von Schleicher?

VON PAPEN: On the contrary. Immediately after this conference at Cologne, I wrote a letter to Herr Von Schleicher, which must have reached him the next morning. And after I had returned to Berlin, I went at once to Herr Von Schleicher and told him just what had been discussed at this conference. Thereupon, Herr Von Schleicher caused an official communiqué to be issued. Document Number 9.

DR. KUBUSCHOK: 9(a)—I submit Document 9(a).

VON PAPEN: In this document it says:

"The conversation revealed the complete lack of foundation for the assertions deduced from this meeting by the press about controversies between the Reich Chancellor Von Schleicher and Herr Von Papen."

DR. KUBUSCHOK: Did you then, that is, during the time until 22 January, participate in any political discussions about the formation of a new government?

VON PAPEN: No. Between 9 and 22 January I did not participate in any political discussions about the formation of a government.

DR. KUBUSCHOK: Please give us a short summary of the political development from 10 until 21 January.

VON PAPEN: The Prosecution asserts that now, in the interval between 9 and 30 January, I was the chief factor in forming the government of Hitler on 30 January. A chronological recapitulation

of the days between the 11th and the 30th will reveal how completely wrong this assertion of the Prosecution actually is. Therefore, I shall have to mention a few dates in this connection.

On 11 January: Hitler was in Berlin. He did not see Von Schleicher, Hugenberg, or Von Papen. But the Reichstag decided through the Council of Elders: "We have to give a reprieve to the Government of Von Schleicher."

On 13 January: Schleicher receives Hugenberg, the chief of the rightist movement.

On the 14th: Hindenburg receives Hugenberg.

Later on we shall see that on both of these days, Hugenberg, the leader of the Right, negotiated with Von Schleicher about his entry into the Cabinet, not about the formation of a government with Hitler.

Then on 15 January, the well-known elections in Lippe took place. The Lippe elections gave the National Socialists a new impetus.

On 20 January, the Reichstag, the Council of Elders, decided to postpone their meeting from the 24th to the 31st.

The State Secretary of the Reich Government, Schleicher, declared in this connection: "The Reich Government intends to clarify the political situation as quickly as possible, but the Reich Government is not interested in majority questions."

From that can be seen that Herr Von Schleicher no longer considered the formation of a government on the basis of a majority.

DR. KUBUSCHOK: Now we can leave the political developments and turn to your personal . . .

THE PRESIDENT: If you are going into another subject, we had better adjourn.

[The Tribunal adjourned until 17 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-SIXTH DAY

Monday, 17 June 1946

Morning Session

MARSHAL: If it please the Tribunal, report is made that the Defendants Fritzsche and Speer are absent.

[The Defendant Von Papen resumed the stand.]

DR. KUBUSCHOK: I am now going to deal with the events of January 1933 and I should like to say that I shall then not require any more time. The rest of the examination will be shorter so that I shall be able to conclude my examination of the defendant in the course of today.

Witness, on Friday you told the Tribunal that during the well-known conversation with Hitler on 4 January 1933 at the home of Schröder, you did not discuss the formation of the Cabinet which took place later, on 30 January. You also said that up to 22 January you did not take part in any political discussion. The Prosecution, however, asserts that you influenced the Reich President to name Hitler Chancellor on 30 January. Did you influence Hindenburg to that effect?

VON PAPEN: Before I reply, may I make a brief correction? Your Lordship asked me on Friday for the date of the evacuation of Jerusalem. I said it was 1918, but of course Your Lordship was right; it was in 1917. I beg your pardon.

Now in reply to your question: I did not exert any such influence on Reich President Von Hindenburg, but even if I had done so, it would not have carried any weight in the final decision of the Reich President. The political situation, as we shall see, left the Reich President only the choice between a violation of the Constitution and a Hitler Cabinet.

Furthermore, and I already mentioned this at the conclusion of the last session, it is plain from the historical events of January as reproduced in Document 9, Pages 27 through 31, that during the entire month of January until the 22d almost daily negotiations without my participation took place between the Reich Government and the various parties or among the parties themselves. All of these negotiations were concerned with the possible formation of a

majority in the Reichstag, but all of them were of no avail. I have explained that the Reich Chancellor, Von Schleicher, was trying to bring about a majority in the Reichstag by splitting the Party. This attempt, too, finally failed on 20 January; and that was obvious to the world, for on that day the Reich Chancellor authorized a statement in the Reichstag to the effect that he no longer attached importance to forming a majority in the Reichstag.

DR. KUBUSCHOK: In this connection I should like to refer to Document 9 in the first document book. I shall just read a few extracts from this document, Document 9, Page 27. The heading is:

> "January 11, Reich Chancellor Von Schleicher receives leader of the German People's Party, Dingeldey."

On the next page, Page 28, is proof that on 12 January efforts to split the NSDAP through Strasser had not yet been abandoned. I shall quote from the beginning of the page:

> "At the same time it has only now become known that the Reich President received Gregor Strasser last week for a conference. Strasser apparently expressed his intention of keeping in the background for the time being; only in the event of an unexpectedly sharp conflict between Hitler and Schleicher's Reich Cabinet would Strasser be likely to play a definite part."

In the meantime the Lippe elections took place and gave a clear picture of the development of the NSDAP.

I am quoting now from the middle of the paragraph under 15 January:

> "The electoral victory of the NSDAP not only surprisingly refutes the assertions of the opposition concerning a decline of the National Socialist movement, but is also proof that the Movement is no longer at a standstill, and that a sharp rise has now become apparent."

Significant for the talks on the creation of a parliamentary majority were Schleicher's negotiations with the Center Party, led by Prelate Dr. Kaas. I quote from the last paragraph on Page 28:

> "Reich Chancellor Von Schleicher receives Prelate Dr. Kaas, Chairman of the Center Party, for a lengthy conference.
>
> "In regard to the predictions on a reorganization of the Cabinet, the fiction is kept up in government circles that a Strasser-Hugenberg-Stegerwald combination is possible, despite the difficulties which these plans have undoubtedly encountered. Privy Councillor Hugenberg is said to have laid down the condition that undisturbed activity within the Cabinet for at least 1 year should be guaranteed."

On the next page, Page 29, I would like to refer to the last 10 lines or so of the statement of State Secretary Planck before the Council of Elders of the Reichstag.

"In the conversations referred to, the National Socialists are to assume the lead and to attempt to form all groups, from the National Socialists to the Center, into a majority front of the sort which failed to materialize at the end of 1932. The conduct of these negotiations, in which the Schleicher Cabinet is in no way involved, rests with Hitler. If on 31 January the Reichstag should be summoned and a conflict arise between Government and Reichstag or if such a conflict is brought about by other events, the proclamation of the often discussed state of emergency must to an increased extent be expected. The Government would then dissolve the Reichstag and set the date for the new elections in the early fall."

On the following page, Page 30, I should like to refer finally to the first heading . . .

THE PRESIDENT: Dr. Kubuschok, the Tribunal does not think it necessary to read all this detail. It is evident from the headlines of these entries that there were political negotiations which led to the assumption of power by the National Socialist Party. Is that not all that you want to say?

DR. KUBUSCHOK: I want to prove that the formation of the Government on 30 January was an imperative solution arising out of the political parliamentary incidents of the day. Therefore, it is of relevance to note what took place at the time, what attempts failed, what other possibilities existed, and what . . .

THE PRESIDENT: What I mean is this: It appears, does it not, from the headlines of these entries. Really, you can read the headlines without reading the details. For example, on Page 30, the entry on 21 January, and those other entries, give the substance of the matter.

DR. KUBUSCHOK: Very well, Mr. President. May I then be permitted to read Page 31, part of the text describing the historical events of the overthrow of Chancellor Schleicher on the 28th? Regarding the decisive conversation between the Reich Chancellor and the Reich President the following was officially announced:

"Reich Chancellor Von Schleicher submitted to the Reich President today his report on the situation, and declared that the present Reich Cabinet, on account of its character as a minority Government, would be in a position to represent its program and its views in the Reichstag only if the Reich President placed the dissolution order at his disposal. Reich President

Von Hindenburg stated that in view of the prevailing situation he could not accept this proposition. Reich Chancellor Von Schleicher hereupon submitted the collective resignation of the Reich Cabinet, which the Reich President accepted; the Cabinet was entrusted with continuing provisionally to discharge official business."

As proof for the fact that the possibility of Hitler forming a parliamentary government did not exist, I want to refer to a brief extract on Page 32:

"National Socialist sources again state categorically that for the National Socialists only a Hitler government can be considered. Any other attempts towards a solution must be prevented with the utmost vigor. This, of course, applies to a Papen cabinet; but a Schacht cabinet also is out of the question."

I should now like to refer to the next document, Document 8. In this document all the possibilities for the formation of a government are discussed in detail.

Witness, how did Reich Chancellor Von Schleicher react to this political situation?

VON PAPEN: After his efforts to split the Party and to bring about a majority in the Reichstag had failed, Reich Chancellor Von Schleicher asked the Reich President to give him dictatorial powers, which meant a violation of the Constitution. Thus he wanted the very thing which I had proposed to the Reich President on 1 December 1932 as the only way out of the situation, a proposal which the Reich President had accepted at that time but which General Von Schleicher had thwarted.

DR. KUBUSCHOK: A discussion took place on 22 January at the home of Von Ribbentrop at which, besides yourself, Göring, Meissner, and Oskar von Hindenburg were present. Was this discussion arranged on your initiative, or who suggested it?

VON PAPEN: The initiative for this discussion on the 22d was Hitler's, and he also suggested that Herr Von Ribbentrop should place his home at our disposal. The Reich President wished to know what Hitler thought about the solution for the political crisis, and what his proposals were. Therefore, the conversation of the 22d concentrated exclusively on the demands of the National Socialists, while the formation of a government as it took place on the 30th was not discussed.

DR. KUBUSCHOK: On 28 January, at noon, the Reich President instructed you to begin negotiations for the formation of a new government. What possibilities for the formation of a government did you consider the political situation offered?

VON PAPEN: The idea of forming a parliamentary majority government had been abandoned since 20 January; it was impossible. Hitler was not willing to lead or participate in such a government.

Secondly, further support of the Schleicher presidential cabinet by means of a declaration of a state of emergency and the prorogation of the Reichstag, which was against the Constitution, had been rejected by the Reich President on the 23d. He had rejected these proposals, as we know, because Von Schleicher had told him in December that a violation of the Constitution would mean civil war and a civil war would mean chaos, "because I am not in a position," he said, "to maintain law and order with the Army and with the Police."

Thirdly, since Hitler offered to participate in a presidential cabinet, this was the only remaining possibility, and all the forces and political parties which had supported my Government in 1932 were available for this.

DR. KUBUSCHOK: What were the instructions which the Reich President gave you?

VON PAPEN: The instructions given me by Von Hindenburg were as follows:

Proposal for the formation of a government under the leadership of Hitler, with the utmost restriction of National Socialist influence and within the framework of the Constitution.

I should like to add that it was quite unusual for the Reich President to ask any person to form a government which would not be headed by the person himself. In the normal course of events Hindenburg should, of course, have entrusted Hitler himself with the formation of a government; and he entrusted me with this task because he wished to minimize Hitler's influence in the government as far as possible.

DR. KUBUSCHOK: And with whom did you negotiate?

VON PAPEN: I negotiated with the leaders of the rightist groups which might participate in the formation of this government; namely, the NSDAP, the German National People's Party, the "Stahlhelm," and the German People's Party.

DR. KUBUSCHOK: On what lines did you suggest the formation of the new cabinet to the Reich President?

VON PAPEN: I suggested the only possibility which existed, namely, a coalition cabinet consisting of these groups.

THE PRESIDENT: Dr. Kubuschok, the Tribunal thinks that the defendant is going into far too much detail about this, because he has given his account of why the President sent for him and why he

had anything to do with it. And that is the only matter that concerns him. After he has given that explanation, it should not be necessary to go into any further detail about it at all.

DR. KUBUSCHOK: Mr. President, the Prosecution has made the charge that the very act of forming the government was a crime; he is therefore defending himself by stating that he tried to provide for a safeguard against the preponderant influence of Hitler in the government. It is relevant . . .

THE PRESIDENT: Yes; but that is what I said. He has given that explanation. He does not need to add all sorts of details to support that explanation.

I have written down, some moments ago, that the President asked him because he wished to minimize the influence of Hitler. Now he is going on with all sorts of details.

DR. KUBUSCHOK: Mr. President, he is merely trying to set forth in what way he wanted to limit Hitler's influence, and that is a very important point. He is going to tell us for what safeguards within this government he provided; the selection of personalities, all the other restrictions which were agreed upon to rule out the possibility of Hitler's influence becoming overpowering. This is a very important point in reply to the Prosecution's charges.

THE PRESIDENT: The defendant can do it as shortly as possible, and not do it in too great detail. That is all the Tribunal wants.

VON PAPEN: I shall be very brief, My Lord.

The safeguarding measures which I introduced at the request of the Reich President were the following: 1) A very small number of National Socialist ministers in the new cabinet; only 3 out of 11, including Hitler. 2) The decisive economic departments of the cabinet to be placed in the hands of non-National Socialists. 3) Experts to be put into the ministry posts as far as possible. 4) Joint reports of Reich Chancellor Hitler and Vice Chancellor Von Papen to Hindenburg in order to minimize the personal influence of Hitler on Hindenburg. 5) I tried to form a parliamentary bloc as a counterbalance against the political effects of the National Socialist Party.

DR. KUBUSCHOK: To what extent did Reich President Von Hindenburg himself select the members of the new cabinet?

VON PAPEN: The Reich President reserved the right to appoint the Foreign Minister and the Reichswehr Minister. The first of these two key posts was given to Herr Von Neurath, in whom the President had special confidence; and the Reich Defense Ministry was given to General Von Blomberg, who also enjoyed the particular confidence of the Reich President. The National Socialist members

of this cabinet were only the Reich Minister of the Interior, Frick, whose activity as Minister of the Interior for the State of Thuringia had been completely moderate, and the Minister without Portfolio, and later Prussian Minister of the Interior, Göring.

DR. KUBUSCHOK: In this connection I should like to refer to Document Book 3, Document Numbers 87 and 93, namely, an affidavit of the former Minister, Dr. Alfred Hugenberg, and an interrogatory of Freiherr von Lersner.

THE PRESIDENT: What page in Book 3 did you say?

DR. KUBUSCHOK: Hugenberg's statement is on Pages 194-195; Lersner's on Pages 210-212.

The Prosecution asserts that the Government formed on 30 January took over the program of the NSDAP as its own. Will you explain now, Witness, what the basis of that Government's policy was.

VON PAPEN: The view held by the Prosecution is completely incorrect. The program which on 30 January we decided to adopt was not the program of the Nazi Party, but it was a coalition program. And this is perfectly plain from the proclamation which this Government issued to the German people on 1 February. And to give historical proof of this, may I quote two sentences from that proclamation? It says:

> "The National Government will consider it as its first and foremost task to restore the spiritual and political unity of our people. It will consider Christianity as the basis of its general moral outlook and will firmly protect the family as the determining unit of the nation and the State.
>
> "The tremendous problem of reorganizing our economy will be solved with two large Four Year Plans."

I should like to add just one sentence:

> "This Government is fully conscious of the magnitude of its duty to support the maintenance and affirmation of peace, which the world now needs more than ever."

In addition, this coalition program, which the Prosecution describes as the Nazi program, contained the following points: Continued existence of the Länder and the federal character of the Reich; protection of justice and the legal system, permanent tenure of office for judges; reform of the Constitution; safeguarding of the rights of the Christian churches; and, above all, abolition of the class conflict through a solution of social problems, the restoration of a true national community.

DR. KUBUSCHOK: Did you yourself do anything else to assure the application of your own political ideas?

VON PAPEN: I did everything within my power, together with my political friends, to carry through the ideas which I myself had contributed to this political program. At that time the essential point seemed to me the creation of a counterbalance to National Socialism; and therefore, I asked the leaders of the rightist parties to give up the old party programs and to unite in a large, common political organization with the aim of fighting for the principles which we had enunciated. However, the party leaders did not act on this suggestion. Party differences were too marked and no changes took place. The only thing I accomplished was the establishment of a voting bloc of all three parties, and on behalf of this voting bloc I made many speeches in which I presented this program, this coalition program, to the country.

DR. KUBUSCHOK: I want to refer to a speech delivered by the witness on 11 February on behalf of the voting bloc; it may be found in Document 12, Pages 54 and 55. I quote from about the middle of Page 55, the following brief passage:

> "Therefore, I consider the circumstance that the present Reich Cabinet is not made up of one single party or movement, but of various groups of the national movement, of free politicians and experts, not a disadvantage, but rather an advantage."

What specific questions were emphasized and underlined in the program of this voting bloc? You spoke of these questions in various speeches. In order to save time, I should like only to submit to the Tribunal the document dealing with this point, Document Number 10. Will you briefly explain your attitude, and comment on the various questions; first of all, the social problem?

VON PAPEN: The social problem was, of course, at the head of my program, because this question dominated all others. It was our task to make well-satisfied citizens out of the workers who were now engaged in class conflict and to give to each the opportunity of a livelihood and a home. I stated in the speech, which is contained in this document, that there would always be differences in property but that a small group should not possess everything while the great mass of the people had nothing. And above all, I again and again emphasized the fact that if we could succeed in solving the social problem we would, in that way, make an eminent contribution to peace in Europe.

DR. KUBUSCHOK: What was your program in foreign political matters?

VON PAPEN: The program was very simple. It consisted merely of the desire to do away, in a peaceful manner, with the discriminations against the German people and against our sovereignty.

DR. KUBUSCHOK: What was your platform on religious questions?

VON PAPEN: It is plain from all of my speeches that I considered the regeneration of the German people in a Christian sense as the prerequisite for the solution of the social and all other problems which confronted us. I shall return to this point later.

DR. KUBUSCHOK: I should like to submit as evidence the document which I have already mentioned, Document Number 10; and I ask that the High Tribunal take judicial notice of it. Since a mistake affecting the sense of the translation has been made on Page 39 and since the question of dissolving the trade unions will play an important role later, I should like to read a brief paragraph on Page 39, about the middle of the page:

> "I recognize that the trade unions have done much to imbue the working classes with professional honor and professional pride. Many trade unions, for instance the Union of Clerks, have made exemplary achievements in this respect. The conception of class conflict, however, stood in the way of real reform and constructive work in this direction.
>
> "The Socialist parties prevented the trade unions' efforts to convert the workers into a class. If the trade unions would recognize the signs of the times and remain out of politics to a greater extent, then they could, especially now, become a strong pillar of the national life."

Please comment on the results of the elections on 5 March 1933.

I just want to draw the Court's attention in this connection to Document Number 98, in which I have set down a diagram of the election results in the years in question.

VON PAPEN: This election became extremely significant for later developments. First of all, I should like to state that this election was a truly free one, for it was conducted together with the old functionaries of the Republic; and that it was actually free is also shown by the fact that the votes of the Communists and of the Social Democrats did not decrease at all. I, personally, had expected that the NSDAP would be successful at the polls. In November 1932 I had taken away 36 of its seats in the Reichstag, and I expected that it would regain some of those seats. I had also hoped that my own voting bloc would be very successful. I hoped that the people would realize the necessity of creating a counterbalance. However, this did not happen . . .

THE PRESIDENT: Surely the figures are sufficient for us. We can form our own conclusions from the figures. We can see the figures. We do not need to have them all explained and commented

on to us. There are very much more important things for us to consider.

DR. KUBUSCHOK: Witness, will you now describe the events leading up to the Enabling Act of 23 March 1933.

VON PAPEN: The Enabling Act arose out of the necessity to have the economic measures carried out in an untroubled Reichstag session. Negotiations were conducted with the Center Party to obtain a 1-year parliamentary truce, but these negotiations failed. Hence this law which had some parallels in the past became a necessity. The Prosecution has emphasized this law as clear proof for the existence of a conspiracy. May I say, therefore, that I myself tried to provide for a certain check by desiring to maintain the veto power of the Reich President. The Cabinet records of 15 March show, however, that State Secretary Meissner did not consider the participation of the Reich President necessary.

DR. KUBUSCHOK: I should like to refer to Document Number 25, which is identical with Exhibit USA-578, to the attitude taken by Von Papen in this Cabinet discussion and to the standpoint just mentioned of State Secretary Meissner.

"Meissner, State Secretary of the minority Cabinet, of the Cabinet of the Reich President, and his excellent assistant."

I should also like to refer to Document 23, because from the enumeration of the emergency decrees in that document it is clear that in the state of emergency which obtained then it was not possible to govern by means of Reichstag laws and that the Enabling Act was to be a substitute for these emergency decrees which were being repeatedly issued.

I must make one correction: The standpoint of State Secretary Meissner is contained in Document 91, Exhibit USA-578.

[Turning to the defendant.] On 21 March 1933, an amnesty decree was issued. The Prosecution has described this decree as an unheard-of law. What can you say about it?

VON PAPEN: The Prosecution calls this law "sanction of political murder."

I should like to say the following about it: This law was issued in an emergency decree of the Reich President, not of the Cabinet; and it was a natural end of a revolutionary period which had lasted 7 weeks. There are very many historical parallels for this amnesty decree; for example, the law which was issued by the young German Republic on 21 July 1922 and which includes murder in the amnesty measures.

DR. KUBUSCHOK: May I now refer to Document 28, Page 99 of Document Book 1. This contains the law of 21 July 1922, which

concludes "the period of a state of unrest which obtained in the years 1920 and 1921." May I also refer to Page 100 of this Document Number 28 which contains the law of 20 December 1932 which has been mentioned.

On 23 March the law dealing with the special courts was issued. What can you say in that connection?

VON PAPEN: These special laws, or special court laws, are also not entirely new. I, personally, as Chancellor of the Reich issued such a law on 9 August 1932; and I based my action then on a directive of the Brüning Cabinet dated 6 October 1931. In revolutionary periods punishable political acts must be brought to speedy trial under the law.

DR. KUBUSCHOK: May I now point out Document 27, Page 89 of Document Book 1, especially the introduction preceding Paragraph 1, which shows that this emergency decree was based on the Brüning emergency directive of 1931.

On 1 April 1933 the Jewish boycott was carried out. Was this a measure taken by the Government? Did you participate in it in any way?

VON PAPEN: The assertion of Dr. Goebbels that the Cabinet had approved this measure was completely false. On the contrary, at the suggestion of the Cabinet Hitler had on 10 and 12 March made public announcements which my counsel will submit.

The Prosecution refers to the telegram which I sent to New York on the 25th as a "white lie of the greatest magnitude"; I can only say, however, that this assertion is completely unfounded. The public statements of Hitler gave us, in fact had to give us, the assurance that such excesses would not take place again. In that belief I sent my telegram. It would be inconceivable that on the 25th I should send a telegram to New York . . .

THE PRESIDENT: Dr. Kubuschok, I thought your question was: Did the defendant participate in these measures? I do not know what his answer is. He has been answering for some minutes, but I do not know what the answer is.

The question was: Did you participate? And I do not know what he has answered.

VON PAPEN: I said that the assertion of Goebbels that the Cabinet had approved this Jewish boycott was a lie.

THE PRESIDENT: Why not answer directly; did you or did you not participate?

VON PAPEN: No, we did not participate.

DR. KUBUSCHOK: May I refer to Document 33, Page 113, a statement by Hitler on 10 March, the last two lines:

"Annoying individuals, obstructing automobiles, or disturbing business life must absolutely be discontinued."

On the same page, Page 113, a declaration of Hitler on 12 March, last sentence of the paragraph next to the last:

"Whoever, from now on, attempts by individual action to cause disturbances in our administrative or business life, acts consciously against the National Government."

THE PRESIDENT: Dr. Kubuschok, I did not intend to prevent the defendant telling the Tribunal what he had done with reference to his telegram to the *New York Times,* but I wanted him in the first instance to answer your question.

Now, if he wants to add anything about what he telegraphed to the *New York Times,* let him do so.

DR. KUBUSCHOK: Will you then, please, go back to this point in connection with the *New York Times.*

VON PAPEN: I can only add, My Lord, that it would be quite inconceivable that on 25 April I should send this telegram to New York knowing that 3 or 4 days later a new Jewish boycott would be carried out; that is completely nonsensical. Moreover, I might point out that on the same day Herr Von Neurath sent a similar wire to Cardinal O'Connell.

DR. KUBUSCHOK: Will you now give an account of your attitude to the Jewish problem?

VON PAPEN: My attitude toward the Jewish problem can be briefly delineated; it has always, throughout my life, been the attitude expected by the Catholic Church of its members. I stated my view on the question of race, as regards National Socialist doctrine, quite publicly in a speech in Gleiwitz in the year 1933, and my counsel will submit that speech as evidence.

A completely different question not connected with my basic attitude toward the Jewish problem was, however, the kind of foreign monopoly, the overwhelming influence of the Jewish element in the spheres which form the nation's public opinion, such as press, literature, theater, film, and especially law. There seemed no doubt in my mind that this foreign monopoly was unhealthy and that it should be remedied in some way. But as I said, that had nothing whatever to do with the racial question.

DR. KUBUSCHOK: I refer now to Document 16, Page 68, which contains an extract from the speech which, as the defendant mentioned, he made in the year 1934 at Gleiwitz. I quote:

"There are certainly no objections to race research and eugenics which endeavor to keep the characteristics of a nation as pure as possible and at the same time to kindle

the feeling of a racial community. This love of one's own race will never degenerate into hatred of other nations and races. That is the decisive point. Eugenics must never be brought into conflict with Christianity for they are not opposed, they only differ. It was Christianity which first made of the German tribes a German nation, and it is really not necessary to create a new Nordic-Germanic religion in order to give testimony to our race."

May I refer also to Document 29, Page 103, which deals with the second topic discussed by the defendant; it is an excerpt from the diary of Mr. Dodd on 4 July. I then refer to Document 35, Page 115, which contains an article from the *Völkischer Beobachter* dated 19 August 1932. The heading of that article is:

"The Papen Government Has Inscribed the Protection of Jews on its Banner."

THE PRESIDENT: That was August 1932? Where is it?

DR. KUBUSCHOK: Document 35, Page 115. I just read the heading of this article in the *Völkischer Beobachter* dated 19 August 1932.

"The Papen Government Has Inscribed the Protection of Jews on its Banner."

The article deals with a statement of Herr Kareski, Berlin, as representative of the Jewish People's Party. Kareski was head of the synagogue in Berlin. He stated at that time—and I quote the last paragraph of this article:

"Fortunately, the Constitution of the German Republic still protects the legal position of the Jews and the Papen Government has inscribed the protection of the Jews on its banner."

The Civil Service Law of 7 April 1933 contains certain exceptions applying to Jews. Originally these exceptions were planned to be much more extensive; did you do anything to restrict them to the form in which they were then issued?

VON PAPEN: May I just add one thing? I believe you forgot to submit to the Tribunal Document 33, relevant to the question of foreign monopoly in the German legal system.

DR. KUBUSCHOK: I shall submit that document after your answer to the question I have just put.

VON PAPEN: I approved of the Civil Service Law of 7 April 1933 only insofar as it applied to Jewish civil servants appointed after the year 1918. For after the war large-scale immigration into Germany had taken place from the east, especially from Poland, a country which was strongly anti-Semitic at the time.

I successfully pleaded with Hindenburg that soldiers who had taken part in the war should under no circumstance be affected by this law, for I always held the view that a German, no matter of what race, who had done his duty to his country should not be restricted in his rights.

DR. KUBUSCHOK: I refer now to Document 33, Page 114. It is a report of the Ministry of Justice, which shows that when the Civil Service Law was issued 3,515 Jewish attorneys were practicing. On the basis of the mitigation which the witness has just mentioned, 735 ex-service men and 1,383 other attorneys who had been admitted to the bar before 1914 were exempted from this law. Thus 2,158 Jewish attorneys remained, whereas 923 had to resign from office.

What was your view of the Civil Service Law as a whole?

VON PAPEN: I think it was completely normal that the National Socialists, since they were partners in the coalition government and controlled more than 50 percent of the German people's vote, should have a part in filling civil service posts.

I might point out that the National Socialists, in the propaganda which they conducted for years, fought with all means against the so-called "Bonzentum" (boss rule); but one could not, of course, predict that they themselves would later make that same mistake.

THE PRESIDENT: Would this be a convenient time to adjourn?

[A recess was taken.]

DR. KUBUSCHOK: We have been speaking of the Civil Service Law, which in the points we have discussed corresponds to some extent to the trend of thought of the NSDAP. Why did you feel impelled to urge certain concessions which were then, in fact, made?

VON PAPEN: I was convinced at the time that with this Civil Service Law we were creating something basic. I did not anticipate, and I could not guess, that the Party would continually in the following years introduce new laws in this field and would thereby completely ruin the civil service.

DR. KUBUSCHOK: What was your attitude towards the dissolution of the parties?

VON PAPEN: The exclusion of parties was a necessary result of the Enabling Act. For 4 years Hitler had demanded the reforms which we wanted to make. Document 25 shows that I asked Hitler to create a new basic State law, and, in his speech of 23 March Hitler

promised that. In that speech he spoke of a reform of the Constitution to be carried through by the appropriate existing constitutional organs. That reform would have given us, in my opinion, in a revolutionary way, a new and sounder democratic and parliamentary form of government. Moreover, I must say that I saw no danger in the temporary use of the one-party system. There were excellent examples for it in other states, for instance in Turkey and Portugal, where this one-party system was functioning very well. Finally, I should like to point out that in my speech at Marburg on 17 June 1934 I criticized this development and said that one could only regard it as a transitional stage which a reconstructed Constitution would have to terminate.

DR. KUBUSCHOK: What is your view of the Reichsstatthalter Law of April 1933? Will you also state your attitude to the question of German federation?

VON PAPEN: This question, Gentlemen of the Tribunal, has been brought up by the Prosecution in order to accuse me of duplicity, untruthfulness, or deceit. The Prosecution has alleged that in 1932 my views on the federal character of Germany were different from those I expressed in 1933. But even if I had changed my mind in this respect, I cannot see why the question of a federal or a central government should be a crime within this Charter. Besides, I did not change my mind at all. The view I expressed in 1932 was this: I recognized the advantages of a federal system for Germany, and I wanted to maintain it; but I always wished, even in 1932, that there should be joint agreement on the bigger political issues in Germany. That a federal country is governed on uniform principles is surely a matter of course. That was the only question, and it was also the basis of my intervention in Prussia on 20 July.

If one knows the history of Germany, one will be aware that Bismarck overcame that difficulty by combining the offices of the Reich Chancellor and the Prussian Prime Minister. Therefore, when in 1933 we appointed Reichsstatthalter in the various Länder, we merely intended to establish a common political line. Besides, the rights of the Länder remained unaffected. They had their own financial, legal, and educational systems, and their own parliaments.

DR. KUBUSCHOK: With regard to the Reichsstatthalter Law, may I refer to Document 31, particularly Page 111 of that document. The passage quoted there from the Pfundtner-Neubert works shows that the authority of the Länder was abolished only by the later Reichsstatthalter Law in the year 1935, when the Defendant Von Papen was no longer in office.

Why did you on 7 April 1933 resign as Prime Minister of Prussia?

VON PAPEN: My letter to Hitler dated 10 April 1934 has been submitted by the Prosecution. It contains the reasons for my resignation. In Prussia—I have already stated this—I had already carried through the co-ordination of political aims on 20 July. The Reichsstatthalter Law enabled the Reich Chancellor to be Prime Minister of Prussia himself or to nominate a substitute. And so my task in Prussia was completed. Apart from that, I should like to mention the following point: The elections of 5 March had given the National Socialists a strong majority also in the Prussian Parliament. The Prussian Parliament then met and naturally desired that a National Socialist should become Prime Minister of Prussia.. For all these reasons I resigned.

DR. KUBUSCHOK: The Prosecution charges that, as a prominent lay member of the Catholic Church, you were particularly able to consolidate the Nazi regime in the field of the churches. We must therefore discuss your attitude regarding the Church. Will you give an account of the situation of the German Church at that time?

VON PAPEN: This charge, Gentlemen of the Tribunal, is for me the most serious of the entire Indictment—the charge that I, as a Catholic, contributed to this conspiracy against world peace. May I be permitted, therefore, to discuss my attitude in the Church question quite briefly.

The Catholics in Germany had organized themselves in the Center Party. Before 1918 the Center Party, as a moderate party, had always endeavored to establish a balance between the left and the right political wings. After the war that picture was altered entirely.

We then find the Center Party mostly in coalition with the left. In Prussia, this coalition was maintained during all the years from 1918 until 1932. Undeniably the Center Party deserves much credit for the maintenance of the life of the State during the years after the collapse; but the coalition with the Social Democrats made co-operation of the Center Party with the right impossible, particularly with regard to Church policy. In political questions and matters of internal party policy the Center Party, therefore, followed a line of compromise which was the result obtained through the concessions of others in the field of Church policy. That this state of affairs. . .

THE PRESIDENT: Dr. Kubuschok, to what is this all relevant?

DR. KUBUSCHOK: The Prosecution has said:

> "Papen used his position of a prominent Catholic to consolidate the Nazi regime. He was double-faced, and that characteristic is especially obvious in this connection and throws light on his personality."

The defendant is now explaining what his attitude in Church matters has been from the beginning of his political activity. Since he was first a member of the Center Party and then left it, it is necessary to discuss the split which developed between him and the leaders of the party. Later we shall...

THE PRESIDENT: Why is it necessary to go into this extreme detail? Surely the thing that he wants to show is that he was not assisting the Nazi Party. He was undoubtedly a Catholic, and he wants to show that he was not assisting the Nazi Party. He does not want to go into all of these details about Catholic influences and his part in Catholic influences.

DR. KUBUSCHOK: Mr. President, may I say quite generally that in dealing with the case of Papen it is our intention to prove that from the very beginning the defendant consistently adhered to his principles. For this purpose it is essential that the conditions prevailing at particular times should be elucidated. We are now not very far from the point at which we can leave the internal political conditions, and the other subjects will be very much briefer. I do think, however, that for the sake of completing the picture of the defendant's personality, I must go into certain details; but of course we shall make every effort to omit all superfluous and avoidable particulars.

THE PRESIDENT: Dr. Kubuschok, we are perfectly well aware that the case of every one of these 21 defendants is different from the others. We are perfectly aware of that, but what we desire is that their cases should be put forward fairly but without unnecessary and burdensome detail. They hope that you will try to confine the defendant to the really essential matters. Will you go on?

DR. KUBUSCHOK: Very well, Mr. President. We shall do our best.

[Turning to the defendant.] Will you continue, please.

VON PAPEN: Perhaps I may wind up this question by saying that my opposition within the Party, my plea for the use of conservative forces, gave me the reputation of being a bad Catholic. A foreign judge, a non-German judge cannot know that in those years a Catholic who was not a member of the Center Party but belonged to the right-wing parties was regarded as a bad and inferior Catholic; and that is the state of affairs against which I always fought.

DR. KUBUSCHOK: In his government statement of 4 June 1932 Von Papen referred to the fact that the outcome of the previous coalition policy in Prussia was fully evidenced in the entire public life of Germany. I refer to Document 1, Page 2, and I quote the last part of the first long paragraph:

"The disintegration of atheistic-Marxist thoughts has already too deeply invaded all the cultural fields of public life, because the Christian forces of the State were all too easily ready for compromises. The purity of public life cannot be maintained or re-established by way of compromises for the sake of parity. A clear decision must be made as to what forces are willing to help reconstruct the new Germany on the basis of the unchangeable principles of the Christian ideology."

I also refer to Document Number 37, on Page 119, a speech at Munich on 1 March 1933, when the witness discussed the aspects which he has just mentioned.

Witness, how did you think the position of the churches was safeguarded by the new Government, and what did you do in that respect?

VON PAPEN: First of all, I asked Hitler to make a clear-cut statement on this question; and he did so in a positive manner. In the foreword to my speeches made at that time, there is the observation that it is the first and most important task to revise the Nazi program with reference to the religious problem, since such a revision is a prerequisite for a united front of the two Christian confessions in that coalition. Secondly, I attempted to protect Church policy by giving it, after the conclusion of the Concordat, a certain foreign political context.

DR. KUBUSCHOK: In this connection may I refer to Document 37, Pages 119 and 120, containing an extract from several speeches delivered by the witness, and to Volume I, Document 38, further down on Page 119, which is a speech made at Dortmund in February 1933. In it the Defendant Von Papen said . . .

THE PRESIDENT: We have that document before us.

DR. KUBUSCHOK: Document 37, Page 119.

THE PRESIDENT: Well, I have got that, yes. All I was suggesting was that it was sufficient to refer us to the document. As a matter of fact, you have already got to the time when he resigned his post as Prime Minister of Prussia in 1934, and now you are going back to 1933.

DR. KUBUSCHOK: He resigned in Prussia in 1933. May I draw the Tribunal's attention, then, to this speech on Page 120.

THE PRESIDENT: Did he resign in 1933 or 1934?

DR. KUBUSCHOK: 1933.

I draw the Court's attention to this speech, and to Page 120, a proclamation of the Reich Government of 1 February 1933.

[Turning to the defendant.] What were the events leading up to the Concordat?

VON PAPEN: I reiterate that I wanted to secure a Christian basis for the Reich at all costs. For that reason, I suggested to Hitler in April 1933 that the rights of the Church should be firmly laid down in a Concordat, and that this Concordat should be followed by an agreement with the Evangelical Church. Hitler agreed, although there was strong opposition in the Party; and thus the Concordat was concluded. The Prosecution has adopted the view that this Concordat was a maneuver intended to deceive. Perhaps I may in this connection point to the facts that the gentlemen with whom I signed this Concordat were Secretary of State Pacelli, the present Pope, who had known Germany personally for 13 years, and Monsignor Kaas, who for years had been the Chairman of the Center Party, and that if these two men were willing to conclude a Concordat, then one can surely not maintain that this was a maneuver intended to deceive.

DR. KUBUSCHOK: I refer to Document 39, Page 121. I should like to read now a quotation from Document 40, on Page 122. After the conclusion of the Concordat, Hitler published a decree, which is worded as follows—near the middle of Page 122:

"I therefore order:

"1. All Catholic organizations which are recognized by the present Treaty and which were dissolved without directions from the Government are to be immediately reinstated.

"2. All measures of coercion against members of the clergy and other leaders of these Catholic organizations are to be rescinded. A revival of such measures is prohibited in the future and will be punished under prevailing laws."

I read that quotation to prove that only later did Hitler change his mind, probably under the influence of the circle nearest to him.

I refer to Document 41, Page 123, a telegram of Von Papen. In the English translation of this telegram there is a mistake which changes the sense considerably. Paragraph 2 of the telegram says, "Thanks to your generous and wise statesmanlike conception . . ." The English translation reads "sportsmanlike" instead of "statesmanlike."

On the next page I draw attention to the telegram addressed by Von Papen to the Bishop of Treves. There are also affidavits relevant to the questions which have been discussed. Document 43, Page 127 is the affidavit of Freiherr von Twickel, and it takes the place of an affidavit which the late Cardinal Von Galen was to have signed. The matter had already been discussed with Cardinal Von Galen; but before being able to put it into writing, he died.

Freiherr von Twickel, who discussed the questions with him, has now stated the details in his affidavit, Document 43, on Page 127.

I also draw particular attention to Document 52, on Page 139. This is an affidavit of the Abbot of the Benedictine Abbey at Grüssau, Schmitt, who for many years had been the spiritual adviser of the defendant. In the last but one paragraph on Page 139, he discusses the question of the Concordat, and says:

> "Herr Von Papen was deeply upset by the disloyal attitude of the German Government, which became apparent soon after the conclusion of the Concordat. He continually and fully discussed with me his great anxiety in this respect, and he pondered ways and means of ending these violations. I can also testify, from my own experience, that he personally worked actively in the interests of the Church to assure a loyal observance of the Concordat."

Witness, did you, apart from the Concordat, endeavor to see to it that your views on Church policy were adopted?

VON PAPEN: Yes. On 15 June 1933 I created an organization in Berlin which we called the "Cross and Eagle," and a little later I founded the Union (Arbeitsgemeinschaft) of Catholic Germans. Catholic forces were to gather within these two organizations, outside the political parties. The Union of Catholic Germans had the particular task of collecting complaints and reporting them to me, so that I could try my best to help.

DR. KUBUSCHOK: The Prosecution charges that by dissolving the Union of Catholic Germans you yourself violated the Concordat. What can you say to that?

VON PAPEN: Yes, and furthermore the Prosecution already describes the period which followed the Concordat as "the characteristic development of the Church policy of the conspirators, and Papen's participation in it."

The accusation raised by the Prosecution, with regard to my own sabotage of the Concordat, is a tremendous accusation, which is connected with the dissolution of the Union which I have just mentioned. The documents show that this Union had already been paralyzed during the Röhm Putsch on 30 June 1934 and that its later dissolution through me was merely a formal affair. Moreover, this Union had no connection whatever with the Concordat. It was a political union which never enjoyed the protection of the Concordat.

DR. KUBUSCHOK: I refer to Document 45, on Page 129. It is an exchange of telegrams between Hitler and Hindenburg on the question of the appeasement of the Evangelical Church.

For the subject of the Union of Catholic Germans I refer to Document 74, Pages 130 to 132. This document contains an affidavit—I beg your pardon, I gave a wrong figure—I refer to Document 47, on Page 130, which is an affidavit of the executive of the Union of Catholic Germans, Count Roderich Thun. He discusses the dissolution on Page 131, and I quote the second paragraph:

"On 30 June 1934 the office of the Union of Catholic Germans was occupied by officials of the Gestapo. The files were confiscated and taken away. I myself was arrested."

The fact that as a result of these measures the dissolution became a mere formality is mentioned in the last paragraph of Page 131:

"Even after my release, which was effected after a time, the confiscated files were not returned. In view of the attitude taken up by the Party authorities, a revival of any further activity on the part of the organization could no longer be considered. Furthermore, in practice, any further activity of the Union of Catholic Germans was no longer possible, as the only person who could have undertaken the constantly necessary interventions, Herr Von Papen, was out of the picture since he had moved to Vienna. The only question which remained for the heads of the Union was that of officially declaring an end of the Union's activities, which in practice had already occurred. But one had to consider that in the event of an official announcement of the enforced dissolution, the large number of Catholics who had distinguished themselves through their work for the organization would be persecuted. In order to prevent this the dissolution was pronounced by the Union's own leaders."

Then I quote the last sentence:

"In order to do everything still possible to safeguard Catholic interests, this pronouncement did not neglect to point out again that official authorities, above all Hitler himself, had solemnly vowed to protect Christian and ecclesiastical interests."

THE PRESIDENT: Will you remind me of the date when the Defendant Von Papen moved to Vienna?

DR. KUBUSCHOK: On 15 August 1934 he went to Vienna; he was appointed at the end of July 1934.

[Turning to the defendant.] In the summer of 1934 it became obvious that the Party was sabotaging the Concordat, and that Hitler's assurances were not being kept. How do you explain Hitler's behavior in this respect?

VON PAPEN: I believe that in those days Hitler himself had been entirely willing to keep peace with the Church, but that the radical elements in his Party did not wish it, that most of all Goebbels and Bormann continually instigated Hitler to violate assurances in the Church question. Often and repeatedly I protested to Hitler, and in my speech at Marburg I branded these violations publicly. I stated at Marburg, "How can we fulfill our historic mission in Europe if we ourselves strike our name from the list of Christian peoples."

DR. KUBUSCHOK: I draw attention to Document Number 85 on Page 186 and ask that judicial notice be taken of it. It is an affidavit by Dr. Glasebock, former leader of the Front of German Conservative Catholics.

Witness, on 14 March 1937 Pope Pius XI expressed his burning anxiety in an Encyclical and solemnly protested against the interpretation and the violations of the Concordat. The Prosecution said that if you had been serious in giving the assurances contained in the Concordat, you would at that point have had to resign from your official post. What do you say to that?

VON PAPEN: What could I have improved by resigning? Apart from the Austrian affair, I no longer had any political influence at all on Hitler; and my own conviction that in the critical time of 1937 there was an urgent necessity for me to remain in Austria did not permit me to leave my post there. We shall see that later from the developments.

Besides, if the Prosecution assumes that on account of the certainly quite justified Encyclical of the Pope I should have left my post, then I must ask what did the Church do? The Church did not recall the Papal Nuncio from Berlin, and Bishop Berning did not leave the State Council in which he represented Catholic interests. No doubt all this was quite justified, because all of us at that time still hoped for inner changes.

DR. KUBUSCHOK: I draw attention to Document 48, Page 133. The document has already been submitted as Exhibit USA-356; it is on Page 133 in my document book. It is the speech of Pope Pius XII on 2 June 1945. I quote:

> "It must, nevertheless, be recognized that the Concordat, in the years that followed, brought some advantages, or at least prevented worse evils. In fact, despite all the violations to which it was subjected, it gave Catholics a juridical basis for their defense, a stronghold behind which they could shield themselves in their opposition—as long as this was possible—to the ever-growing campaign of religious persecution."

A practical effect of the Concordat is shown in Document 49, on Page 134 of my document book. It has already been presented as Exhibit USA-685. It is a letter from the Deputy of the Führer to the Reich Minister of Education and deals with the dissolution of the theological faculties of the universities. I quote the last paragraph of that letter:

> "In this case, as you have likewise pointed out in your letter, the directives of the Concordat and the Church treaties are to be taken into consideration. In the case of those faculties which are not mentioned by a specific directive in the Concordat and the Church treaties, as for example, Munich and a few others, the dissolution may begin at once. This is equally true of the theological faculties in Austria: Vienna and Graz."

[Turning to the defendant.] During the following years public discussion of questions regarding Church policy was almost entirely suppressed, since the Catholic press and, in violation of the Concordat, even Catholic Church papers were to a large extent banned. What did you do against this?

VON PAPEN: It appeared to me necessary, since the Catholic press had been completely muzzled, to do something to continue public discussion of the struggle against tendencies inimical to the Church. I very often talked about this question with Bishop Hudal, an outstanding churchman in Rome, whose book written in 1936 will be submitted to the Tribunal by my counsel. This book contains my severe criticism of the antireligious tendencies and contains also an objective appreciation of the positive social ideas of National Socialism; it is all the more notable because a high authority of the Church was then, in 1936, making yet another attempt to create a synthesis between Christian ideas and the healthy doctrines of National Socialism.

DR. KUBUSCHOK: In what way do you consider the book of importance with regard to the charge brought by the Prosecution?

VON PAPEN: I consider it to be relevant for the following reason: The Prosecution makes its task very easy: In view of the criminal end of National Socialism, it shifts all blame to the initial years of development and brands as criminals all those who, out of pure motives, attempted to give the Movement a constructive and creative character. But here in this book of 1936 a churchman of high rank lifts his voice in an attempt, made on his own initiative, to bring about an improvement of conditions. Today we know that all such attempts failed and that a world crumbled in ruins. But is it right, on that account, to accuse millions of people of crimes because they tried to attain something good in those days?

DR. KUBUSCHOK: I refer to extracts from Bishop Hudal's book, contained in Document 36, Page 116, and ask that judicial notice be taken of that document. With reference to the subject which the witness has just mentioned, the attitude of high-ranking churchmen to the question of a possible synthesis of ideas, I refer to Document Number 50, Page 135, which is an appeal made by Cardinal Innitzer on behalf and at the request of the Austrian bishops.

Witness, as you have said, Bishop Hudal aimed at a change in Hitler's ways along the lines proposed in his book. What was Hitler's reaction to the book?

VON PAPEN: At first Hitler was, I thought, very much impressed by this book; but then the anti-Christian forces among his advisers gained the upper hand once more and convinced him that it would be dangerous in the extreme to allow such a book to appear in Germany. The book had been printed in Austria, and therefore a permit for its publication in Germany was required. All I could obtain was permission to print 2,000 copies, which Hitler wanted to distribute among leading Party members for a study of the problem.

DR. KUBUSCHOK: Did you think that the foreign policy of the Reich was being pursued on the principles laid down when the Government was formed?

VON PAPEN: Yes. While I was a member of the Cabinet it was certainly conducted on the agreed principles. I might mention the Pact of Friendship with Poland, which was concluded at that time and which was an important step towards peace. Hitler concluded this treaty although, on account of the problem of the Corridor, it was most unpopular. I might also mention the Four Power Pact concluded in the summer of 1933, which affirmed the Locarno Treaty and the Kellogg Pact. I mention also the visit in January 1934 of Mr. Eden, to whom we submitted proposals for the demilitarization of the SA and the SS. Thus we tried to remove the discriminations against Germany by peaceful means. In my opinion, the great powers made a disastrous mistake by not showing understanding and assisting Germany during that phase and thus checking radical tendencies.

DR. KUBUSCHOK: On 14 October 1933 Germany left the Disarmament Conference. Was this a departure from the previous policy which you have just discussed?

VON PAPEN: The withdrawal from the Disarmament Conference was not in any way intended to be a departure from our political principles, but it took place because the equality of which

we had been definitely assured on 11 December 1932 was then revoked.

THE PRESIDENT: Dr. Kubuschok, would you tell me, is the defendant saying that the principles adopted in 1933 were contained in any document or not?

DR. KUBUSCHOK: The proclamation of the Reich Government of 1 February 1933 contains the principles of the policy of the new Cabinet. These principles are supplemented in the statement of the Reich Government dated 23 March 1933, a statement which deals with the Enabling Act.

THE PRESIDENT: Could you give me the reference to the first document that you mentioned?

DR. KUBUSCHOK: I shall give it to you after the recess, Mr. President.

[Turning to the defendant.] What were the reasons for, and what was the attitude regarding Germany's withdrawal from the League of Nations?

VON PAPEN: The withdrawal from the League of Nations was a question on which there could be many differences of opinion. I myself was in favor of remaining in the League of Nations; and I remember that on the day before Hitler decided on this step, I myself traveled to Munich in an effort to persuade him to remain a member of the League. I was of the opinion that we would have gained much by remaining in the League, where we had many good connections dating even from the time of Stresemann. Nevertheless, if we left the League it was perhaps a tactical question insofar as we might then hope that direct negotiations with the major powers would be more promising. Besides, Herr Von Neurath's discussion with Ambassador Bullitt, which is Document L-150, shows—Herr Von Neurath says in that document that Germany had proposed a reorganized League of Nations, which she would rejoin.

DR. KUBUSCHOK: I refer to Lersner's interrogatory, Document 93. In question Number 5, the witness speaks of Von Papen's journey to Munich; this is Page 213, Document 93.

Mr. President, I come now to a rather more lengthy question; may I ask therefore whether this would be a suitable moment for a recess?

THE PRESIDENT: We will adjourn at this time.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. KUBUSCHOK: Before the recess, I was questioned about the documents on the Governmental Proclamations of 1 March 1933 and of 23 March 1933. Excerpts from the Governmental Proclamation of 1 March 1933 are contained in Document Papen-12, Page 53. This is only a short extract. I shall submit the proclamation in its entirety later.

The Proclamation of 23 March 1933, in Document Papen-12, Pages 56 to 58, has also been submitted in extract form. This proclamation has already been submitted in full under USA-568.

[Turning to the defendant.] On 2 November 1933, in a speech in Essen, you stated your opinion in connection with the forthcoming plebiscite on the withdrawal from the League of Nations, and you approved the Government's policy. The Prosecution has drawn conclusions from this speech which are unfavorable to you.

What reasons caused you to make that speech at that time?

VON PAPEN: Our withdrawal from the League of Nations was an exceptionally important decision of foreign policy. We wished to emphasize to the world that this withdrawal was not to be construed as a change in our methods of foreign policy. Therefore, Hindenburg and Hitler in free appeals emphasized that the German people should decide by means of a plebiscite the question of whether a withdrawal from the League of Nations would be in the exclusive interests of peace and our equality of rights.

DR. KUBUSCHOK: I should like to refer to Document Papen-60, Page 167, and Documents Papen-61 and Papen-62, on Pages 147 to 152 of the document book. These are the statements made by Hitler, by the Reich Government, and by Hindenburg. The purport of all these proclamations: Only a change in method, not a change in our attitude toward affairs.

[Turning to the defendant.] At that time you were Reich Commissioner for the return of the Saar. What policy did you follow in connection with the Saar question?

VON PAPEN: As far as the Saar question was concerned, I always worked on the basis of a friendly understanding with France, and with a view to finding a solution for the Saar problem without recourse to a plebiscite. Our reasons for not wanting this plebiscite were not in any way selfish, for the plebiscite was at all times certain to be in favor of Germany. My proposal was rather a sacrifice willingly made in the interest of understanding, and at the same time I proposed that France should receive compensation to the amount of 900 million francs for the return of the Saar mines. And I should like to repeat that even after our withdrawal from

the League of Nations, my commissioner for Saar questions, Freiherr von Lersner, always negotiated with the League of Nations organs about the Saar on the principle of a friendly settlement of the Saar. In the summer of 1934 my commissioner negotiated with the French Foreign Minister M. Barthou on this question.

DR. KUBUSCHOK: I should like to refer to Document Papen-59, Page 145. This document contains the published comments of the witness with regard to the Saar problem. Freiherr von Lersner in his interrogatory (Document Papen-93, Page 212) in reply to Question 3 defined his attitude on this question of the Saar.

[Turning to the defendant.] Were there any signs that after leaving the League of Nations this generally peaceful policy was just a policy of expediency and that a policy of aggression was planned for the more remote future?

VON PAPEN: Not at all. Leaving the League of Nations was for us simply a change in method. And at that time we were conducting direct negotiations with the major powers. The fact that we were pursuing a policy of peace was something I emphasized in many public statements. And in this connection I should like to refer to Document Papen-56, which will be submitted by my counsel.

DR. KUBUSCHOK: Document Papen-56, Page 44, contains a speech made by the witness at Kottbus on 21 January 1934. I ask the Tribunal to take judicial notice of this document.

[Turning to the defendant.] Did you know of any rearmament measure which might have led to the expectation of an aggressive policy in the future?

VON PAPEN: It seems to me that the proceedings so far conducted before this Tribunal have shown clearly that the actual rearmament did not begin until much later. If Hitler, in fact, did take steps to rearm in 1933 or 1934, then he discussed these measures personally with the Defense Minister and the Air Minister. In any event I was never concerned with such measures. Apart from that, it has already been ascertained here that this much-talked-of Reich Defense Committee in 1933 and 1934 was purely a committee of experts under the direction of a lieutenant colonel.

DR. KUBUSCHOK: A short time ago you mentioned the safeguards adopted when the Hitler Government was formed, in order to minimize the influence of the Party. How did Hitler's position and the influence of the NSDAP develop in the course of the year 1933 and at the beginning of 1934?

VON PAPEN: A confidential relationship gradually developed between Hitler and Hindenburg.

This led in the end to the joint report which was agreed upon at that time. The influence exerted by Hitler on Reichswehrminister

Blomberg was a very decisive factor in this development. Even at that time, in 1933, Hitler tried to exert a decisive influence on the Army. He wanted to have the then General Von Hammerstein removed and replaced by General Von Reichenau, who at that time passed for a friend of the Party. At that time I persuaded the Reich President not to grant Hitler's wish in this connection and advised him to take General Von Fritsch. Another reason for this development was the integration of the "Stahlhelm," that is, a rightist conservative group, into the SA of the NSDAP. Then there were new cabinet members who were selected from the Party. Hugenberg, the leader of the conservative Right, left the Cabinet, and the two important ministries which he filled, the Ministries of Economy and Agriculture, were occupied by National Socialists. A decisive psychological factor, as I have already mentioned, was the election result of 5 March, for the governments of all the Länder had National Socialist majorities, and these local governments exerted constant pressure on Hitler. Hitler drew his support now from Party dynamics and thus changed in an ever-increasing degree from a coalition partner ready for compromise into an autocrat who knew no compromise.

DR. KUBUSCHOK: I should like to refer to the affidavit of the former Minister Hugenberg, Document Number Papen-88, Pages 196 to 198 in the document book. I should further like to refer to Document Papen-13, Pages 59 to 61 in the document book, an affidavit by Dr. Conrad Josten.

On what was your position as Vice Chancellor based?

VON PAPEN: As Vice Chancellor it was intended that I should be the Reich Chancellor's deputy, but without a department of my own. It very soon became apparent that the position of deputy was quite impossible, as Hitler dealt with every question himself. The fact that I had no department of my own weakened my position, for this position was now based upon nothing but the confidence of Hindenburg, a confidence which decreased proportionately with the growth of Hitler's importance.

DR. KUBUSCHOK: What was the constitutional basis of Hitler's position in the Cabinet?

VON PAPEN: The position of the Reich Chancellor in the Cabinet is constitutionally provided for in Article 56 of the Constitution of the Reich. This article says: "The Reich Chancellor will lay down the general principles of policy and will be responsible for them to the Reichstag." If the policy of a department minister is not in accordance with these principles laid down by the Reich Chancellor, no decision will be made by the Cabinet on a majority ruling, but the Reich Chancellor alone will decide the point in

question. And under Article 58 of the Constitution, it says: "The Reich Chancellor cannot be outvoted by the Cabinet in cases where his policy is opposed."

DR. KUBUSCHOK: In connection with this question, which has so far been incorrectly submitted in the evidence taken, I should like to refer to the leading commentary on the Weimar Constitution by Gerhard Anschütz, Document Papen-22, Pages 80 and 81 of the document book.

I should like to refer to Page 81, Note 4 to Article 56. This note states clearly that if differences of opinion should arise as to the application of the basic principles of the policy, the Reich Chancellor alone will decide, and that in these basic problems no vote will be taken and no majority decision made.

[Turning to the defendant.] What conclusions did you think had to be drawn from this development of affairs?

VON PAPEN: In the middle of the year 1934 the internal tension in Germany grew more and more serious. The situation was such that the concessions which we as partners of the coalition had made did not lead to any definite internal agreements but were considered by the Party as being only the beginning of a new revolutionary movement. This was quite obviously a divergence from the Coalition Pact concluded on 30 January. The many objections which I made in the Cabinet were without success. Then, since there was no possibility in the Cabinet of forcing the Reich Chancellor to change his policy, as we have just shown from the Constitution, the only possibilities left were a resignation or a public statement. If I resigned, I should no longer be in a position to speak. Therefore, I decided to speak at once, and publicly, and I decided to appeal on principle in this matter to the German people. If, as the Prosecution asserts, I had been an opportunist, I would have kept silent and remained in office, or I would have accepted another office. But now I decided to put my case before the public and to shoulder all the consequences that might follow.

DR. KUBUSCHOK: On 17 June 1934 you made that speech at Marburg. What did you expect to accomplish with this speech?

VON PAPEN: In this speech I brought up for discussion and put up to Hitler for decision all those points which were essential for the maintenance of a reasonable policy in Germany. In this speech I opposed the demand of a certain group or party for a revolutionary or national monopoly. I opposed the coercion and abuse of others. I opposed anti-Christian endeavors and totalitarian encroachment on religious domain. I opposed the suppression of all criticism. I opposed the abuse and regimentation of the spirit. I opposed violation of fundamental rights and inequality before the law, and

I also opposed the Byzantine principles followed by the Party. It was clear to me that if I succeeded in penetrating, even at one point only, the circle of Nazi ideology, we could force the system into order and restore, for instance, freedom of thought and speech.

DR. KUBUSCHOK: This speech may be found in Document Papen-11, Page 40. The Prosecution has already stressed its significance. First of all, I may say that the English text contains a misprint. The date is not 7 July, as appears in the translation, but 17 June. Because of the basic significance of this speech, the critical nature of which is unique in German history since 1933, I am going to read a few passages from it.

I am starting at Page 41, about the middle of the page:

"We know that rumors and whispering propaganda must be brought out from the darkness where they have taken refuge. Frank and manly discussion is better for the German people than, for instance, a press without an outlet, described by the Minister for Propaganda 'as no longer having a face.' This deficiency undoubtedly exists. The function of the press should be to inform the Government where deficiencies have crept in, where corruption has settled down, where grave mistakes have been committed, where incapable men are in the wrong places, where offenses are committed against the spirit of the German revolution. An anonymous or secret information service, however well organized it may be, can never be a substitute for this task of the press. For the newspaper editor is responsible to the law and to his conscience, whereas anonymous news sources are not subject to control and are exposed to the danger of Byzantinism. When, therefore, the proper organs of public opinion do not shed sufficient light into the mysterious darkness, which at present seems to have fallen upon the German public, the statesman himself must intervene and call matters by their right names."

Then on Page 42, just below the middle of the page:

"It is a matter of historical truth that the necessity for a fundamental change of course was recognized and urged even by those who shunned the path of revolution through a mass-party. A claim for revolutionary or nationalist monopoly by a certain group, therefore, seems to be exaggerated, quite apart from the fact that it disturbs the community."

And now Page 43, a sentence from approximately the middle of the page:

"All of life cannot be organized; otherwise it becomes mechanized. The State is organization; life is growth."

And on Page 45, just a little beyond the center of the page:

"Domination by a single party replacing the majority party system, which rightly has disappeared, appears to me historically as a transitional stage, justified only as long as the safeguarding of the new political change demands it and until the new process of personal selection begins to function."

As to the religious question, the witness states his view on Page 46, near the middle of the page:

"But one should not confuse the religious State, which is based upon an active belief in God, with a secular State in which earthly values replace such belief and are embellished with religious honors."

Then, about five lines following:

"Certainly the outward respect for religious belief is an improvement on the disrespectful attitude produced by a degenerate rationalism. But we should not forget that real religion is a link with God, and not substitutes such as have been introduced into the consciousness of nations especially by Karl Marx's materialistic conception of history. If wide circles of people, from this same viewpoint of the totalitarian State and the complete amalgamation of the nation, demand a uniform religious foundation, they should not forget that we should be happy to have such a foundation in the Christian faith."

Then, the third line from the end on this page:

"It is my conviction that the Christian doctrine clearly represents the religious form of all occidental thinking and that with the reawakening of religious forces the German people also will be permeated anew by the Christian spirit, a spirit the profundity of which is almost forgotten by a humanity that has lived through the nineteenth century. A struggle is approaching the decision as to whether the new Reich of the Germans will be Christian or is to be lost in sectarianism and half-religious materialism."

Then, on Page 48, just a little beyond the center of the page:

"But once a revolution has been completed, the Government only represents the people as a whole and is never the champion of individual groups."

Then, a little further down, about 10 lines from the bottom:

"It is not permissible, therefore, to dismiss the intellect with the catchword of 'intellectualism.' Deficient or primitive intellects do not justify us in waging war against intellectualism. And when we complain frequently today about those of us who are 150 percent Nazis, then we mean those

intellectuals without a foundation, people who would like to deny the right of existence to scientists of world fame just because they are not Party members."

Then, on the first line of the next page—Page 49—it says:

"Nor should the objection be made that intellectuals lack the vitality necessary for the leaders of a people. True spirit is so vital that it sacrifices itself for its conviction. The mistaking of brutality for vitality would reveal a worship of force which would be dangerous to a people."

In the next paragraph he speaks of equality before the law. I read the last few lines:

"They oppose equality before the law, which they criticize as liberal degeneration, whereas in reality it is the prerequisite for any fair judgment. These people suppress that pillar of the State which always—and not only in liberal times—was called justice. Their attacks are directed against the security and freedom of the private sphere of life which the German has won in centuries of hardest struggle."

In the next paragraph he speaks against Byzantinism; the second sentence reads:

"Great men are not made by propaganda, but rather grow through their deeds and are recognized by history. Even Byzantinism cannot make us believe that these laws do not exist."

He deals with education in the next paragraph, and I should like to begin with the second sentence:

"But we must have no illusions regarding the biological and psychological limits of education. Coercion, too, ends at the will for self-expression of the true personality. Reactions to coercion are dangerous. As an old soldier I know that the most rigid discipline must be balanced by certain liberties. Even the good soldier who submitted willingly to unconditional authority counted his days of service, because the need for freedom is rooted in human nature. The application of military discipline to the whole life of a people must remain within limits compatible with human nature."

Then on the next page—Page 50—I should like to read the second sentence of the last paragraph:

"The Movement must come to a standstill sometime; a solid social structure must sometime come into existence which is held together by an impartial administration of justice and by an undisputed governmental power. Nothing can be achieved by means of everlasting dynamics. Germany must not go adrift on uncharted seas toward unknown shores."

As my last quotation, I shall read the first paragraph on the following page:

"The Government is well informed on all the self-interest, lack of character, want of truth, unchivalrous conduct, and arrogance trying to rear its head under cover of the German revolution. It is also not deceived about the fact that the rich store of confidence bestowed upon it by the German people is threatened. If we want a close connection with and a close association among the people, we must not underestimate the good sense of the people; we must return their confidence and not try to hold them everlastingly in bondage. The German people know that their situation is serious, they feel the economic distress, they are perfectly aware of the shortcoming of many laws born of emergency; they have a keen feeling for violence and injustice; they smile at clumsy attempts to deceive them by false optimism. No organization and no propaganda, however good, will in the long run be able to preserve confidence. I therefore viewed the wave of propaganda against the so-called foolish critics from a different angle than many others did. Confidence and readiness to co-operate cannot be won by provocation, especially of youth, nor by threats against helpless segments of the people, but only by discussion with the people with trust on both sides. The people know what great sacrifices are expected from them. They will bear them and follow the Führer in unflinching loyalty, if they are allowed to have their part in the planning and in the work, if every word of criticism is not taken for ill-will, and if despairing patriots are not branded as enemies of the State."

Witness, what were the consequences of the Marburg speech?

VON PAPEN: This speech was banned at the instigation of Propaganda Minister Goebbels. Only one or two papers were able to publish the contents, but that sufficed to attract attention to it both at home and abroad. When I heard of the ban placed on it by the Propaganda Minister, I went to the Reich Chancellor and tendered my resignation. I told him: "It is an impossible situation for the Vice Chancellor of your Government to be forbidden to open his mouth. There is nothing to be done but to take my leave."

However, Hitler said: "That is a blunder on the part of the Propaganda Minister; I shall speak to him and have him rescind this decree."

In that way he stalled me along for several days. Today I know that even at that time he lied to me because my Codefendant Funk had stated that he was instructed by Hitler to go to Hindenburg

and tell Hindenburg that the Vice Chancellor had uttered sentiments contrary to the policy of the Cabinet and of Hitler, and must be dismissed. If the witness Gisevius testified here to the effect that Herr Von Papen was silent and that he should at least have mobilized the diplomats then I should like to point out that Mr. Dodd's diary makes it very evident that the world—the outside world—was well informed of this last appeal of mine.

DR. KUBUSCHOK: I should like to refer to the last remark made by the witness, which may be found in Document Papen-17, Pages 71 and 72, in Ambassador Dodd's diary.

I beg your pardon, it is on Pages 69 and 70 of the English text. I quote from the second paragraph, the first line:

"There is great excitement everywhere in Germany."

He had previously mentioned the Marburg speech.

"All the older and more educated Germans are highly delighted."

Then, under the date of 21 June, he reports that the speech was cabled to *The New York Times,* that the papers in London and Paris were featuring the "Von Papen episode," as he calls the Marburg speech. I refer in this connection to the beginning of Page 72, in the English text on Page 70.

As regards the Government's measures against the Marburg speech and its propagation, I want to refer you to Document Papen-15, Page 66, an affidavit by Westphalen, which shows that even possession of a copy of the speech was sufficient to cause disciplinary action to be taken against an official.

Witness, the events of 30 June 1934 took place in the meantime. To what extent did these incidents affect you personally?

VON PAPEN: On the morning of 30 June, I received a telephone call from Minister Göring, asking me to come to have a talk with him. I went to see Göring; he told me that a revolution had broken out in the Reich—an SA revolution—that Hitler was in Munich to put down this uprising there, and that he, Göring, was charged with restoring law and order in Berlin. Herr Göring asked me, in the interests of my own safety, as he said, to return to my apartment and stay there. I protested quite vehemently against this demand, but Herr Göring insisted. On my way back to my apartment, I went first to my office in the Vice Chancellery. On arriving there, I found my office occupied by the SS, and I was permitted only to enter my own room and get my files. I went on home to my apartment, where I found a large number of SS. The telephone was disconnected; the radio was disconnected; and I was completely cut off from the outside world for 3 whole days.

DR. KUBUSCHOK: What measures were taken against your staff?

VON PAPEN: I naturally did not hear about the measures taken against my staff until 3 July, after I had regained my freedom. I learned that my press adviser, Herr Von Bose, had been shot in his office. I further learned that two of my male secretaries, Herr Von Tschirschky and another gentleman, had been taken to a concentration camp and a few days later, I learned of the death of my friend and colleague—a private colleague of mine—Herr Edgar Jung.

DR. KUBUSCHOK: Did you try to inform the Reich President?

VON PAPEN: I finally succeeded, on the third day of my arrest, in contacting Göring by telephone. I demanded to be set free at once. Herr Göring apologized and said that it was only a mistake that I had been kept under arrest for this long period of time. I then went immediately to the Reich Chancellery. There I met Hitler, who was about to start a Cabinet session. I asked him to step into the next room so that I could speak to him and I refused to comply with his request that I should attend the Cabinet meeting. I said to him: "What has happened here to a member of your government is so incredible and fantastic that there is only one answer for me to give: A repetition of my request to resign—and at once."

Herr Hitler tried to persuade me to remain. He said: "I will explain to you in the Cabinet and later in the Reichstag how everything happened, and why it happened."

I said to him: "Herr Hitler, there is no explanation and no excuse for this incident; I demand that the fate of these members of my staff be made the subject of immediate investigation and the facts be cleared up." I demanded that he publish my resignation immediately.

When he saw that I could not be persuaded to remain, Herr Hitler told me that he could not make my resignation public because the agitation among the German people was too great. He said that he could not make my resignation public for some 3 or 4 weeks.

When I left Hitler, I tried personally and through one of my secretaries to get in touch with Hindenburg, but that attempt failed. My secretary found out—I must add that Herr Von Hindenburg was then in Neudeck in East Prussia—my secretary, who had gone to East Prussia, found that it was impossible to reach Hindenburg. He was completely cut off. My own telephone calls did not get through.

I went to my friend General Von Fritsch, the Chief of the Armed Forces, and said to him: "Why don't the Armed Forces intervene? The Armed Forces are the only means for maintaining order that

we still have in the country. When General Von Schleicher and his wife were murdered, as well as other officers, it would in my opinion have been quite proper for the Wehrmacht itself to try to restore order in this situation."

Herr Von Fritsch said to me: "I can take action only when I have Field Marshal Von Hindenburg's order in my hands."

But Hindenburg was not accessible to us. He had obviously been informed by the other side of the complete legality of the events which had taken place, and which Hitler declared in the Reichstag to be in conformity with the law. I did not attend that session of the Reichstag, either, as the witness Gisevius testified; and during the time that elapsed between 30 June and my appointment to Austria, I did not participate in a single act carried out by the Government.

I should like to add that at the same time I asked the Reich Chancellor to hand over to me the body of my friend Bose. We knew that the Gestapo had cremated the bodies of the others. I succeeded . . .

THE PRESIDENT: I believe it would be a good time to recess now.

[A recess was taken.]

MARSHAL: May it please the Tribunal, the Defendant Hess is not present in this session.

DR. KUBUSCHOK: Will you please go on. You were just answering the last question.

VON PAPEN: I was only going to finish the question by saying that I succeeded in having the mortal remains of my friend Bose properly buried and that on that occasion, at his grave, I made a speech emphasizing that one day this injustice would be avenged.

DR. KUBUSCHOK: In this connection I draw your attention to Document Number Papen-14, Pages 62 and 63, an affidavit by Maria Rose, who for years was the private secretary of the witness. On Page 63 she refers to Bose's funeral service which we have just discussed.

I further refer to Document Number Papen-19, Pages 77 and 78, an affidavit by Schaffgotsch who devotes particular attention to the witness' vain attempts to reach Hindenburg in Neudeck. This was Document Number 19, Pages 77 and 78.

Witness, you were offered a Vatican post at that time—a post as Ambassador to the Vatican. Will you please tell us the exact circumstances?

VON PAPEN: It is true that Hitler tried to keep me attached to his staff, and that about a week after the incidents I have described he sent State Secretary Lammers to ask me if I was prepared to accept the post of Ambassador to the Vatican. Of course, I refused this unreasonable request, which I mention here only because a few weeks later I accepted the Vienna post for an entirely different reason, and to prove that I was not interested in obtaining a post as such. I refused this request of Hitler's most bluntly at the time.

DR. KUBUSCHOK: I refer you to Document Number Papen-18, Pages 75 and 76 of the document book; an affidavit by Martha von Papen, the wife of the witness, who describes Lammers' visit.

With regard to the subject with which the witness has been dealing, namely, nonparticipation in the Reichstag meeting of 13 July, I refer to Document Number Papen-21, Page 79, an extract from the *Völkischer Beobachter* regarding the Reichstag meeting.

The names of the ministers present are listed there. The name of the witness Von Papen does not appear.

[Turning to the witness.] When did Hitler approach you on the subject of going to Vienna as Ambassador Extraordinary?

VON PAPEN: It was on the day of the murder of Dollfuss, 25 July 1934 . . .

THE PRESIDENT: Can you remind me, Dr. Kubuschok, whether any question was put to the witness Lammers about this offer?

DR. KUBUSCHOK: Yes, a question was put to the witness Lammers. The witness Lammers was asked about it when he was examined.

THE PRESIDENT: What did he say?

DR. KUBUSCHOK: He said that Papen had refused.

THE PRESIDENT: Go on.

VON PAPEN: On 25 July, the day of the murder of Dollfuss, Hitler rang me up in the middle of the night, and asked me to go to Vienna at once as his Ambassador. I asked: "What gave you this odd idea?" He informed me of Dollfuss' murder, of which I had not yet heard, and said: "It is absolutely essential that someone who knows the conditions there should take over affairs at once." I replied that I could not possibly give my decision on such a step over the telephone, whereupon he asked me to come to Bayreuth at once to discuss it.

DR. KUBUSCHOK: How did these negotiations in Bayreuth turn out? Did you state your own terms for accepting the appointment?

VON PAPEN: In the discussion in Bayreuth, Hitler put it to me that I was the only available person who could re-establish a favorable situation in Austria, because, of course, Hitler knew my attitude toward that problem from the numerous protests I had raised in the Cabinet against Austria's treatment. He also knew that I had been a friend of the murdered Dr. Dollfuss and that I knew Herr Von Schuschnigg. I stated my conditions and these conditions were: The immediate recall of the Party Gauleiter, Herr Habicht, who was in Austria by Hitler's order. Hitler was of the opinion that if he did this it would amount to an admission of guilt.

THE PRESIDENT: Gauleiter of where?

VON PAPEN: Habicht?

THE PRESIDENT: I thought you said that was his name. I wanted to know what Gau he was the Gauleiter of.

VON PAPEN: Perhaps "Gauleiter" is the wrong word. He had been sent to Austria by Hitler as a liaison man, to exert influence on the affairs of the Austrian National Socialists.

DR. KUBUSCHOK: Witness, perhaps you ought to point out that his title was "Landesleiter," which probably corresponds to the title "Gauleiter" in Germany.

VON PAPEN: He was Landesleiter, which was the title given to people who directed the Party organization abroad. Hitler replied that if he recalled this man, it would look like a confession of complicity in the Dollfuss murder. I replied that the whole world was in any case convinced of the complicity of the Party in Germany or its organizations, generally speaking; and that as far as I was concerned, it was only important that those connections should be broken off forthwith. I further demanded an assurance in writing from Hitler that the German-Austrian policy of the future—what is generally termed the Anschluss policy—would move on a purely evolutionary level, that is to say, that no recourse would be had to forcible measures and aggression. Hitler immediately ordered this man Habicht to be recalled and gave me a written assurance with reference to the second question. And finally, I said that I was prepared to take over the pacification program in Austria, but only until normal and friendly relations had been re-established. This meant that later on in Austria I had the additional title of "Ambassador on a Special Mission."

DR. KUBUSCHOK: Witness, we have heard of your political break with Hitler after the speech at Marburg, your resignation from the Cabinet and your treatment on 30 June. I should now like you to give us your reasons for accepting that post in Austria in spite of the events already described.

VON PAPEN: My decision to go to Austria has been made the subject of a special charge by the Prosecution. In order to understand this decision of mine you must be acquainted with German history and you must know that the Austrian problem was the central problem of German policy generally. As Dr. Seyss-Inquart has discussed this problem at length, I can dismiss it quite briefly; and I need only add that the achievement of German unity, for which we had fought for three centuries, was considered by Germany herself to be the most significant and important aim of our national policy. The events of 30 June had brought about the collapse of the coalition which I had formed on 30 January. It had been historically established that I had failed to achieve my intentions and aims in home policy. After the Dollfuss murder, the danger existed that Germany would now suffer bankruptcy also in her one great foreign political aim of the desired unity. All this was in my mind when I weighed the very serious decision as to whether I should accede to Hitler's request. If he put a Party man in that post, then obviously all hope would be lost. If he appointed a diplomat from the Foreign Office, it could be assumed that that official would have no personal influence on Hitler. Therefore, if the situation was to be saved, it would have to be someone who was at least in a position to influence Hitler and moreover someone who, like myself, was independent and had his own political line. Today, just as at that time, I am fully aware that many of my friends did not understand the step I took and that they interpreted it as lack of character. But I hold the view that this is a question which the individual has to settle with his conscience, without regard to understanding or the lack of it; and my conscience told me that I must do everything to restore order in this one question at least.

DR. KUBUSCHOK: With reference to the subject of Austria generally, I call your attention mainly to the documentary material which has been submitted in the previous case. To supplement this, I will only refer to Document Number Papen-64, Page 157, Document Number Papen-65, Page 158 and Document Number Papen-81, Page 178. This last document has already been presented in connection with the case of Seyss-Inquart. It refers to the views held by State Chancellor Dr. Renner on the Anschluss question. I should like only to quote the last four lines on Page 179:

> "As a Social Democrat, and therefore as a champion of the right of self-determination of nations, as first Chancellor of the Austro-German Republic and former president of its peace delegations to St. Germain, I shall vote in the affirmative."

I have produced the document at this particular point in order to support the testimony of the defendant, who considered the Austro-German question from both points of view as a fateful problem; and the fact that this leading statesman, Dr. Renner, also placed in a difficult situation, expressed himself as in favor of Austro-German friendship is best shown here.

Witness, on 26 July Hitler wrote a letter to you confirming your appointment as Ambassador Extraordinary to Vienna. That letter has been mentioned by the Prosecution. What is the explanation of the contents of that letter?

VON PAPEN: The contents of that letter can be explained very easily. If I was to have a chance of re-establishing normal and friendly relations, if I was to have a chance of creating a proper position for myself in relation to the Austrian Government, then after the events of 30 July a public statement of confidence had to be made. In that letter Hitler was to certify that my mission was one of pacification, and that he intended to disavow his terrorist methods. That is stated in the letter. And I find the Prosecution's statement that this letter was a "masterpiece of deceit" quite impossible to understand.

DR. KUBUSCHOK: Mr. Messersmith, in his affidavit, 2385-PS, alleges that you pursued from Vienna a policy of aggression towards the states of southeastern Europe and quotes as your personal verbatim statement, made on the occasion of the return visit he paid to you, the following:

> "... southeast Europe as far as Turkey constitutes the German hinterland; and I have been assigned to carry out the task of incorporating it into the Reich. Austria is the first country on this program."

Did you make any such statement?

VON PAPEN: I took up my position in Vienna in the autumn of 1934; and one of the first colleagues whom I saw was Mr. Messersmith. I never received an assignment to pursue a policy such as Mr. Messersmith describes in his affidavit; and I never made any such statement to Mr. Messersmith.

DR. KUBUSCHOK: In this connection, I refer to Horthy's interrogatory, Document Number Papen-76, Pages 172 and 173.

THE PRESIDENT: Dr. Kubuschok, before you turned to the Messersmith affidavit, you were speaking, or the defendant was speaking, of some letter. Is that letter a document which is before us?

DR. KUBUSCHOK: Yes, the Prosecution have already presented that letter. It is the letter written on the occasion of the defendant's appointment. It is Number 2799-PS.

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): My Lord, if Your Lordship has the British Document Book Number 11, it is Page 37.

THE PRESIDENT: Thank you.

DR. KUBUSCHOK: The witness has just dealt with the statement in the Messersmith affidavit, 2385-PS. The same question, namely the return visit paid to Papen by Mr. Messersmith, is treated in a further affidavit by Messersmith, 1760-PS.

I should like to point out that the wording of the statement referring to the influence of Germany on the states of southeast Europe differs considerably in Messersmith's two affidavits.

As I have already indicated in my previous question, Mr. Messersmith says in 2385-PS that Papen said that he had been assigned to carry out the task of incorporating southeast Europe into the Reich. In contrast to that, the statement is worded very differently in 1760-PS. There Mr. Messersmith states that Papen said on that occasion that he had been ordered to see to it that the whole of southeast Europe, up to the Turkish border, should be regarded as Germany's natural hinterland, and that German economic control over that entire area should be facilitated by his work; thus, in one affidavit, incorporation is mentioned and in the other the facilitation of economic control.

In connection with this latter much less strongly-worded affidavit 1760-PS, I ask the witness whether he did at that time make such a statement, namely, that the whole of southeastern Europe as far as the Turkish border was Germany's natural hinterland and that he had been called upon to facilitate German economic control throughout the entire area on Germany's behalf.

Did you make such a statement?

VON PAPEN: The actual remark I made to Mr. Messersmith is perhaps . . .

SIR DAVID MAXWELL-FYFE: *[Interposing.]* My Lord, I don't know whether it would be useful for the Tribunal to have the two references, the two passages. The passage in 2385-PS Your Lordships will find in Document Book 11a, that is, the second document book, at Page 24 at the bottom of the page. The reference in 1760-PS is in Document Book 11, Page 22, about one-third down the page, and then it goes on to the next third of the page.

VON PAPEN: My actual remark to Mr. Messersmith is perhaps not quite so far from my defense counsel's last quotation as the difference between Mr. Messersmith's two statements would seem to indicate. It is perfectly possible that we discussed the question of southeast Europe and I can well imagine pointing out to him that

the economic and political questions of the southeastern area were of great importance not only for Germany's policy, but also for Austria; for the expansion of our trade toward the Balkans was a perfectly legitimate aim. I kept Berlin informed of everything that I learned in Vienna regarding the policy of the countries of the southeastern area because naturally that was one of the functions of the Ambassador to Vienna. But except for that I did nothing in the whole course of my work in Vienna which tallies in any way with what Mr. Messersmith alleges here.

Apart from that, may I say that it would be extremely foolish and contrary to the most elementary rules of diplomacy if I had made such a disclosure to an unknown ambassador in the course of my first conference with him. That would have made a sensation and would certainly have come to the ears of the Austrian Government and the whole world the next day.

DR. KUBUSCHOK: On this point, I refer to Prince Erbach's interrogatory, Document Papen-96, Page 238, Questions 8 and 9, which deal with this subject. Page 232 of the English text.

VON PAPEN: Perhaps, My Lord, I might add that the Prosecution are in possession of all my reports from the Vienna period, and that these reports are bound to show whether I was pursuing such an objective.

DR. KUBUSCHOK: Did you ever, during your time in Vienna, negotiate with Hungary and Poland about a division of Czechoslovakia? Mr. Messersmith makes such a statement.

VON PAPEN: No, I never did. The policy of the Reich in Czechoslovakia was the exclusive responsibility of our Legation in Prague.

DR. KUBUSCHOK: I refer to the Horthy interrogatory already presented as Document Papen-76. I also refer to Document Papen-68, Page 162, a report from Papen to Hitler, dated 31 August 1935.

[Turning to the defendant.] Mr. Messersmith asserts in the affidavit mentioned that you stated during this conference that you were in Austria for the purpose of undermining and weakening the Austrian Government. Did you make such a statement?

VON PAPEN: May I make a general statement with reference to this affidavit. If I may express myself in diplomatic terms, I must describe it as in the highest degree astonishing. In this affidavit, Mr. Messersmith himself relates that on the occasion of my first visit he received me icily. That is perfectly correct. I was quite well aware that Mr. Messersmith was the keenest opponent of the Nazi system. It is therefore all the more astonishing to read here that during the second visit I opened my heart, so to speak, to Mr. Messersmith; the passage quoted here—that I came to

undermine and weaken the Austrian Government—is, of course, not true either, because such a statement would naturally have been communicated to the Austrian Government by Mr. Messersmith at once, and would have rendered all my work of pacification and my position generally impossible from the outset. May I refer in this connection to the statement made by the Austrian Foreign Minister Schmidt, to whom such activities on my part were entirely unknown.

DR. KUBUSCHOK: I refer in this connection also to Glaise-Horstenau's deposition in the case of Seyss-Inquart. Mr. Messersmith further alleges that you said to him during the discussion that you were trading on your reputation as a good Catholic with, among others, certain Austrians like Cardinal Innitzer. Further on in his affidavit he even asserts that you used your wife's reputation as a fervent and devout Catholic for this purpose, without scruples or qualms of conscience. Will you kindly state your views on this assertion of Mr. Messersmith's.

VON PAPEN: I think that of all the accusations raised against me, this is the most mortifying. I can understand that the policy pursued by a diplomat may be criticized and misinterpreted, but I cannot understand why anyone should be accused of misusing his own religious convictions for dirty, political, commercial purposes; I can understand even less—and find it the height of bad taste—that anyone should say that I even used the religious convictions of my wife for such purposes. Perhaps I can leave this to the judgment of this High Tribunal.

DR. KUBUSCHOK: Mr. Messersmith in his affidavit also refers to a document whose author he does not, however, mention. This document is alleged to have been shown him by Foreign Minister Berger-Waldenegg in January 1935, and is said to reveal the substance of your conference with Hitler, Schacht, and Von Neurath on the occasion of your visit to Berlin. An agreement is alleged to have been made at that conference to the effect that for the next 2 years intervention in the internal political affairs of Austria was to be avoided. Finally Dr. Schacht is said to have made available 200,000 marks monthly for support of the National Socialists in Austria.

What do you say about Mr. Messersmith's statement?

VON PAPEN: The details given by Mr. Messersmith show that this is obviously an agent's report received by the Austrian Foreign Minister on my trip to Berlin. The contents of that report are largely incorrect. The inaccuracy of the passage referring to Dr. Schacht has already been shown by Dr. Schacht's testimony. But in that report there is something which is true. At that time

there was a so-called relief fund in Austria, which was managed by a certain Herr Langot.

It has already been testified here in the witness box that this relief measure, which was intended to benefit wives and children of Austrian National Socialists who had emigrated to Germany, existed with the knowledge of the Austrian Government and police. But I neither requested Herr Schacht to make available official funds for this relief fund, nor did I myself pay out such money. Obviously this money originated from Party sources in Germany.

DR. KUBUSCHOK: In connection therewith, I refer to the testimony of Glaise-Horstenau, who stated here that the Austrian Government knew of the Langot relief fund.

Mr. Messersmith believes that from information received from the Austrian Foreign Minister, Berger-Waldenegg, he can reproduce the following statement made by you at the beginning of 1935: "Yes, now you have your French and English friends, and you can maintain your independence a littler longer."

Did you make such a statement?

VON PAPEN: Such a statement would have been not only extremely foolish from a diplomatic point of view, but actually impossible, because it would certainly have put an end to all diplomatic activity. In no case could the co-operation, which Mr. Messersmith states was carried on successfully for years, or the political activity which he describes as also having been carried on for years, have been reconciled with an open admission of this kind to the effect that I wanted Austrian independence to be of short duration only.

DR. KUBUSCHOK: Mr. Messersmith goes on to say in this affidavit that you had publicly stated you wished to get rid of certain members of the Austrian Government, among them Federal Chancellor Schuschnigg. Is that true?

VON PAPEN: The contrary is true. I never aimed at the removal of Chancellor Schuschnigg; it was rather my aim to give him confidence in my policy, in the policy of reconciliation. I know Herr Von Schuschnigg as an upright Austrian patriot, but also as a man who was far from wishing to deny his German ties, and in spite of many differences in policy these German antecedents of his made an excellent basis for collaboration. I can only ask in addition whether a diplomat who desires a change to come about in the government to which he is accredited would proclaim it from the roof tops.

DR. KUBUSCHOK: The Prosecution have submitted a report which you made to Hitler, dated 17 May 1935, as proof of your desire to steer Schuschnigg into a government including the

National Socialists. This is Exhibit USA-64, included again in my document book as Document Papen-66, on Pages 159 and 160.

Witness, what were your intentions, actually?

VON PAPEN: I must be a little more explicit with reference to this document. This report was written 8 months after the Dollfuss murder, that is, within the first 2 years, during which period the Prosecution themselves admit that I had instructions to remain entirely passive. When this report was written we had news that Starhemberg, in conjunction with Mussolini, was pursuing a policy which would have put serious difficulties in the way of an understanding between Austria and Germany. For this reason I suggested to Hitler a drastic intervention: I proposed that Schuschnigg and the Christian Socialist elements, which were hostile to a Heimwehr dictatorship, should be played off against Starhemberg by the offer of a final agreement on German-Austrian interests. This report states that if Germany were to recognize the national independence of Austria and were to undertake to refrain from influencing the National Opposition in Austria, by which I meant the Nazis, a coalition between these factors would be bound to result. The consequence would be that Germany would participate in the Danube Agreement, which would be tantamount to a peaceful solution of the entire European situation.

DR. KUBUSCHOK: You have just explained that you were pursuing an honest policy of balancing interests?

THE PRESIDENT: Dr. Kubuschok, the Tribunal would like to understand more clearly what the defendant means, by what he just said.

DR. KUBUSCHOK: I have just been told that the translation came over very badly; the English translation is said to have come through very badly. Would you suggest, Mr. President, that the defendant repeat the entire answer?

THE PRESIDENT: Yes, most certainly. That is the best way. I think it is very unlikely that the English translation came over badly.

DR. KUBUSCHOK: Witness, will you please repeat your answer but rather more slowly so that the interpreters will have no difficulty?

VON PAPEN: When this report was written, we had news that Starhemberg—Starhemberg was the chief of the Heimwehr—wanted to link himself with Mussolini in a policy which would be hostile in future to any Germanophile tendencies in Austria. In order to counter Prince Starhemberg's maneuver, I advised Hitler to suggest to Schuschnigg that, instead of forming a coalition with

the Heimwehr, he should do so with the Christian Socialist elements, who were not opposed to a reconciliation of Germany with Austria. In order to induce Schuschnigg to enter into such a coalition, Hitler was to offer him a final settlement of German and Austrian interests. In other words, Hitler was to tell him that Germany would recognize the national independence of Austria and would undertake not to interfere in future in the internal affairs of Austria.

And I went on to say to Hitler that if we achieved this pacification and established good and friendly relations with Austria, we could even join in the Danube Pact. This was the combination of the French, the Italians, and the Czechoslovaks, who were always in favor of a pact of the Danube powers including Austria. We in Germany had opposed the policy of those powers at the time, because we feared that if Austria joined a Danube Pact, she would be estranged from Germany once and for all. If, on the other hand, we were on good terms with Austria and friendly relations were established again, we could, as I pointed out to Hitler, join in this Danube Pact and by this means achieve something extraordinarily constructive for the cause of European peace.

THE PRESIDENT: You are not forgetting your hopes that you expressed this morning?

DR. KUBUSCHOK: You have just said that you pursued an honest policy of the amicable settlement of interests.

Is it true that you persuaded Hitler to make a statement in favor of Austria's independence in his Reichstag speech on 21 May 1936?

VON PAPEN: Yes, that is perfectly true, because that statement was the prerequisite for any normalcy and settlement of interests in a revolutionary way; for our joint policy could only be advanced by Austria. Austria had been ordered by the Peace Treaty of St. Germain and the Geneva Protocol to remain aloof from Germany. If Austria, therefore, were to take the initiative and improve her relations with Germany, it was essential that we should first recognize her sovereignty.

DR. KUBUSCHOK: May I draw your attention to a mistake in the translation. In the English translation, instead of the words spoken by the defendant, the words "revolutionary way" were said instead of "evolutionary way."

Will you please comment on the pact of 11 July 1936?

VON PAPEN: The Agreement of 11 July has been described by Sir David as a deceptive maneuver and an attempt to get the Austrian Government into new difficulties, to undermine it by introducing men of pro-German sympathies, like Glaise-Horstenau or

Foreign Minister Schmidt. This judgment passed upon the pact is entirely incorrect, and I think historically untenable; and I think that that has been demonstrated here by the hearings and testimony of the Austrian Foreign Minister.

The pact was the result of my efforts over 2 years to re-establish normal relations between the sister nations. The agreement was desired by both Governments, not by the German Government only, and Chancellor Schuschnigg admitted that himself, as mentioned in a report of mine dated 1 September 1936 on a speech made by Schuschnigg to Austrian workers. Why should the Austrian Government have concluded this pact? They were not compelled to conclude it, unless they themselves wanted to bring about normal, friendly relations with the German Reich.

For that very reason I had asked Hitler to proclaim Austrian sovereignty in his Reichstag speech. That agreement was certainly not intended to imply our willingness to give up the idea of union at a later date, which we wanted, but it acknowledged Austria's full independence of action. But the aim of union of the two States was now to be pursued in a regular and evolutionary manner.

This corresponded with the agreement which I had made with Hitler on 26 July. There was a second part to that agreement which was not published. That second part contained all the elements necessary for pacification: an amnesty, the regulation of our press relations, and the lifting of the so-called "1,000 mark bar." This was a frontier bar imposed by Hitler's decree upon people traveling into Austria. Any German wishing to go to Austria at that time had to pay 1,000 marks. This bar was removed. Herr Schuschnigg, for his part, promised in this unpublished part of the agreement that men in his confidence who were members of the National Opposition were to be drawn in to co-operate in Austria. It appeared to us that the inclusion of the Austrian Opposition in Austrian parliamentary procedure was an essential condition for any further peaceful solution. In other words, the Party was gradually to lose its illegal status and become a legal factor.

Mr. Messersmith, if I may add, stated incorrectly in his affidavit: "Part II of this pact contained a clause that a number of persons who were in the Chancellor's confidence should be called to positions in the Cabinet." That, obviously, is a mistaken conclusion on Mr. Messersmith's part, because we were not concerned with people who had Hitler's confidence, but with those who had Schuschnigg's confidence. This was an agreement made by Schuschnigg. Apart from this, Mr. Messersmith says with reference to this agreement that:

> "... the first penetration of German nationals into the Austrian Government was achieved through the nomination

of Dr. Guido Schmidt as Secretary of State for Foreign Affairs."

This is entirely wrong. Dr. Schmidt was an Austrian and made Austrian policy; he represented Austrian interests, as was natural, and at no time did Germany exert any influence to make him, Dr. Schmidt, Foreign Minister.

On the whole, world public opinion at that time regarded this agreement as an instrument of peace and a great step forward. It was left to the Prosecution to call it a deceptive maneuver.

DR. KUBUSCHOK: I refer to Prince Erbach's affidavit, Document Number Papen-96 of the English book, Pages 233 and 234, Questions 4 to 7 and Questions 12 and 13, dealing with the subject which we have just discussed.

Did you, after the conclusion of the July Agreement, regard your mission in Austria as terminated?

VON PAPEN: Yes, I regarded it as terminated. That is proved by the resignation which I tendered to Hitler on 16 July 1936.

DR. KUBUSCHOK: I refer to Document Papen-71, Page 165 of the second document book. I quote the beginning:

"On 26 July 1934, you proposed to the late Field Marshal that I should be sent to Vienna on a temporary mission to restore normal and friendly relations.

"With the Agreement signed on 11 July, the decisive step has been taken in this direction."

In a later part of the document, he asks to be recalled; I go on to quote the second paragraph from the end:

"Even though the 'German question' will need very careful and considerate handling in the future too—especially after the incredible difficulties which have gone before—I would like now, at the end of the task you entrusted to me, to place my resignation in your hands."

The Prosecution have used the report you made to Hitler on 1 September 1936, 2246-PS, and they accuse you of remaining in contact with the illegal leaders of the Austrian National Socialists, of attempting to bring that Opposition into the Fatherland Front, and of desiring to change the Schuschnigg regime.

VON PAPEN: In the report mentioned I wrote:

"In the normalization of relations to Germany, progress has been hindered by the staying power of the Ministry of Security, where the old anti-National Socialist officials are located. Changes in personnel are, therefore, urgently required."

The expression which I used in this report: "Changes in the regime," actually means "Changes in personnel"; in that connection I also go on to say, in the following sentence, that economic negotiations will follow in the near future. This shows quite clearly that these words do not refer to a removal of Schuschnigg's person. Apart from that, this report speaks of the gravity of the situation in the Danube area, and makes proposals for a peaceful solution.

If I am accused by the Prosecution of having had contacts with the Nazi Opposition, although the July Agreement had excluded all intervention in Austrian affairs, I must point out that I was perfectly entitled to these contacts because I was interested in ascertaining whether and how far Herr Schuschnigg kept his promise to take in men from the nationalist Opposition in whom he had confidence for collaboration. Just how far the Nazi Opposition submitted to that Agreement of 11 July is shown by Leopold's statement in January 1937, which Mr. Messersmith has attached to his own affidavit.

DR. KUBUSCHOK: I refer to Document Number Papen-75, Page 171, which contains this file note of Leopold's. The document is identical with the appendix, which has the number Exhibit USA-57. There is an error in the English translation. In the fifth line from the end, on Page 1, the word "Anschluss" has been translated by "annexation."

Witness, what do you have to say about Leopold's proposals?

VON PAPEN: Leopold's proposals show the following. The leaders of the Austrian Nazis fully accepted the policy of the July Agreement. They recognized that in future the question of the Anschluss would be an internal Austrian affair to be settled by the Austrian Government. They proposed that this solution should be found in an evolutionary manner by the Austrian Government and the Party. In favor of this solution is the fact that by means of the declaration of the sovereignty of Austria these arguments could in the future no longer represent foreign political dangers for Austria, that is, that the Agreement of July was understood by the Austrian National Socialists and approved of, and that they were prepared to proceed in a legal way with the Austrian Government.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 18 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-SEVENTH DAY

Tuesday, 18 June 1946

Morning Session

[The Defendant Von Papen resumed the stand.]

DR. KUBUSCHOK: The witness Guido Schmidt has referred to an incident involving a flag at Pinkafeld, in May 1937. Would you please describe your activities in settling that incident.

VON PAPEN: The flag incident at Pinkafeld is mentioned by myself, or rather by my defense counsel, because it is a typical example of Hitler's attempts to pass on to an aggressive policy in Austria, even in the days before 1938.

On 1 May 1937 in the small hamlet of Pinkafeld a flag of the German Reich was hauled down by an Austrian official. There was great excitement in the press; I instantly tried to settle the matter amicably with the Austrian Minister for Foreign Affairs. Thereupon I received a telegram to proceed to Berlin at once. I arrived in Berlin and reported to Hitler. Hitler did not receive me. I waited for 3 days. After 3 days, I wrote and told him, "It appears that you are trying to use the flag incident at Pinkafeld to introduce an aggressive policy against Austria. In that case there is nothing more for me to do, and I beg to hand in my resignation." A quarter of an hour later he called me to the Reich Chancellery. He gave me a lecture, which lasted half an hour, furious and beside himself with rage over the humiliations which the German Reich could no longer tolerate. After his rage had spent itself I told him that our agreement of 26 June ruled that the policy concerning Austria was to be conducted on evolutionary lines. The Agreement of 11 July emphasized that. "If you wish to pursue a different policy, then dismiss me," I said.

As a result of this very serious conversation he said, "No, no. Go back and settle everything; we do not want to change our peaceful policy." I returned to Vienna, and the incident was settled satisfactorily with the Austrian Minister for Foreign Affairs within 24 hours.

DR. KUBUSCHOK: Did you talk to representatives of other powers regarding the policy which you pursued in Austria?

VON PAPEN: Yes, I repeatedly discussed this policy with representatives of other powers. For instance, in the summer of 1937 I discussed it with the British Ambassador, Sir Nevile Henderson.

THE PRESIDENT: Has this letter which the witness speaks of been produced, or a copy of it? He has spoken of a letter to Hitler: "I wrote a letter."

DR. KUBUSCHOK: No, we have not got that letter, neither have we a copy of it. The files of the witness were destroyed in Berlin by air attacks.

VON PAPEN: May I add, Mr. President, that the Austrian Minister for Foreign Affairs has confirmed the incident in Court and the course it took. Herr Von Neurath also knows this incident very well indeed.

THE PRESIDENT: Who was the Minister for Foreign Affairs who confirmed it?

VON PAPEN: The Austrian Minister for Foreign Affairs, Schmidt, who was here as a witness; the witness Guido Schmidt.

THE PRESIDENT: Go on.

VON PAPEN: With reference to that question, may I remark that I, of course, very often spoke to representatives of other powers about our Austrian policy. For instance, in June 1938 I discussed it with Sir Nevile Henderson, the British Ambassador to Berlin. In October 1937 I visited Paris, incognito, and there talked to many of the leading politicians about this problem, among them the President of France, M. Daladier, and M. Léon Blum. I assured these gentlemen that we would seek a solution of the Austrian problem exclusively on an evolutionary basis and that the hoped-for union of the two States would never prove a threat to the interests of France, that on the contrary we were only looking for that solution within the European framework, that is, with the consent of France.

At that time, I was under the impression that in England as well as in France it was being increasingly understood that a general settlement was necessary.

DR. KUBUSCHOK: As proof that the defendant could actually have been convinced that the other powers—by virtue of an evolutionary development in Austria—might eventually be prepared to come to a peaceable agreement, I submitted Document Number 74, Page 169. It is a report from Von Papen to Hitler on the conversation just outlined with Sir Nevile Henderson on 1 June 1937.

I draw your attention to this document and should like to point out that Henderson has stated that he was well disposed toward

an amicable solution of the Austrian problem and trusted that he too could exercise a corresponding influence in Paris.

I further draw your attention to Document Number 80, Page 177. It is a statement of the Belgian Minister for Foreign Affairs, Spaak, after the Anschluss. I invite your attention to the last sentence: "I have believed, for a long time past, that the Anschluss complied with the logic of facts and had it been ratified in a normal manner, I should not have been surprised."

Mr. Messersmith alleged that Nazi propaganda in Austria had been paid for out of German funds. Did you ever give or arrange for any funds for that purpose?

VON PAPEN: The Party never received a penny, either from me personally or through the German Embassy. It is, however, quite possible—and even probable—that German Party funds did pour into Austria. I was never informed of this, for it was a well-known fact that I did not enjoy the confidence of the Party in either country.

There is, however, one exception which I particularly wish to emphasize, namely, the donation—and it was known to me—of funds in support of the "Langot" subsidy.

DR. KUBUSCHOK: The Prosecution has reproached you for your anti-Semitic attitude in connection with your report to Hitler of 12 May, in which you suggested giving financial aid to the Freedom League for the furtherance of their fight against Jewry. What was this Freedom League?

VON PAPEN: The Freedom League was a focal point, a union of the former Christian Trade Unions and the Christian Workers' Union, under the leadership of the president of the Trade Unions. Dollfuss took over the leadership in 1934. It would be utterly ridiculous to accuse this Freedom League, mainly composed of Catholic workers, of an anti-Semitic attitude in the National-Socialist sense.

The Freedom League fought to purge the administration of Vienna of unsuitable Jewish elements. The problem of this undue alien penetration was absolutely similar to conditions then existing in Germany, conditions which I mentioned yesterday in detail. This fact is also proved by the report submitted yesterday to the Prosecution. I learned that the Czechs were endeavoring to establish close relations with the Freedom League and that for this purpose they desired to support the League with large sums of money.

I thereupon suggested to Hitler that this possible influencing of the Freedom League by Czech politics should be eliminated by supporting it ourselves. But we could not of course tell the Freedom League: "We are now going to subsidize you so that you do

not go over to the Czechs." So I proposed to Hitler that he should give these moneys in consideration of the League's continued fight against Jewry, which was pure camouflage. Had I wanted to give this money specifically for the fight against Jewry, I would not have written "in consideration of" but "for the furtherance of its fight."

DR. KUBUSCHOK: I refer to Document Number 32, Page 112 of the document book. It is an excerpt from the Austrian *Yearbook* of 1933-1934, which is an official publication. I draw your attention to the beginning of the second paragraph, where it is explained that the Freedom League originated in the Christian Workers' Unions and the Christian Trade Unions.

I further draw your attention to the fifth line from the bottom, and I quote, "At the beginning of 1934 the late Federal Chancellor, Dr. Dollfuss, took over the supreme leadership of the Freedom League."

I also draw your attention to Document Number 72, Page 166. It is a report of Von Papen to Hitler in which he quotes a report from the Prague Secret Service. Of interest, in this connection, is a reference to the fact that the Freedom League was striving for an understanding with Social Democracy.

The next document, Number 70, has already been presented as GB-243. I draw your attention to the first paragraph which reflects the efforts of the Czech diplomats. Document Number 70, Page 164. This is the document mentioned by the Prosecution, part of which has been submitted under GB-243. The first paragraph is important in that it deals with the activities of Czech diplomacy, mentioned a short time ago by the defendant. Furthermore, there is, with reference to this Freedom League, Von Papen's report, Document Number 73, Page 176, to which I wish to invite your attention.

Another report of Von Papen's is interesting, Document Number 69, Page 163. It shows the efforts of the Freedom League to gain a foothold in the political constellation of that day.

Witness, in the summer of 1937 Schuschnigg was making efforts to persuade the National Opposition to collaborate. What do you know about it and what were the subsequent developments?

VON PAPEN: In the summer of 1937 Schuschnigg was making efforts to keep his promise to induce the National Opposition to collaborate. The visit of Minister Glaise-Horstenau to Hitler in June 1938 took place with Schuschnigg's consent.* This choice of members was effected without any participation on my part. But with regard to this "Committee of Seven" I should like to make a statement. Obviously the Chancellor's attempts for appeasement

---

Later he founded the so-called "Committee of Seven" with Dr. Jury and Dr. Tafs.

were either not sufficiently far-reaching for the Party in Austria, or they were too slow. In November 1937 the Austrian police discovered in the office of this "Committee of Seven" documents known as the "Tafs Papers" which led us to believe that new, illegal, and radical purposes were already prevailing. The Austrian Government did not inform me of these papers, and no official *démarche* took place. But I did learn that amidst the documentation was a plan for my assassination. It was suggested that an attempt be made on my life which would provide a pretext for marching into Austria.

The Austrian Minister for Foreign Affairs, Schmidt, confirmed this fact the day before yesterday before the Tribunal, and it appears to me that this suggestion, this plan against me, best proves exactly how great was the harmony between my policy and that of the Austrian or German National Socialists, which the Prosecution insists on taking for granted.

At that time I was very pleased that the Austrian Chancellor had also included Dr. Seyss-Inquart, whom I knew personally, in this work of appeasement. At this point I consider it only fair to make a correction. The Austrian Minister for Foreign Affairs has reported a conversation which he had with me at Ankara, in October 1943. I told him at the time—and I also repeated my statement during my preliminary interrogation—that Dr. Seyss-Inquart had proved to be the greatest disappointment of my life. I had assumed that it was he who had called for the entry of the German troops into Austria and who was responsible for the Nazification of Austria after the Anschluss. In the light of the knowledge we have gained from various documents, I must correct my previous verdict.

DR. KUBUSCHOK: At the end of 1936 your foremost collaborator, Counsellor of Embassy Prince Erbach, was recalled from Vienna. His successor was Counsellor of Embassy Von Stein. Since he took over your duties after you had been recalled on 4 February 1938, it would be interesting to know what his attitude was toward both the Party and you.

VON PAPEN: Later I learned that Counsellor of Embassy Baron von Stein was appointed my Embassy Counsellor by special request of the Party because he was to have control over my policy as regards the Party. Herr Von Stein was an ardent National Socialist. His relations with me were entirely different from those I had with his predecessor, Prince Erbach. But I want to state that also during that period I continued to pursue my original line of policy and that Von Stein merely had the management of technical matters.

DR. KUBUSCHOK: The Hossbach Document of 5 November 1937 has been frequently mentioned—did you know of this conference at Berchtesgaden that this report was based on?

VON PAPEN: Of this sensational conference, of this truly important document in the hands of the Prosecution, I, of course, never even had an inkling. I first became acquainted with the document here in this courtroom. But if I may be permitted to say something more: The concatenation of ideas between the events of 11 March and this document appears to be rather tenuous. This document indicates that Hitler only intended to march into Austria by force, only intended to carry out the Anschluss by force, if a certain European constellation would make this possible. He expected this constellation to appear between 1943 and 1945.

THE PRESIDENT: Dr. Kubuschok, this is mere argument, isn't it? He says he never saw the document until he came into this Court. He is now arguing to us about his connection with the events of March 1938. Well, that is a matter for you, not for the defendant.

DR. KUBUSCHOK: Very well, then I shall deal with that later.

Witness, on 4 February 1938 you were, much to your surprise, dismissed from your post in Vienna. Please inform the Tribunal on the matter.

VON PAPEN: At the end of January 1938 I had been to Berlin to see Hitler; I talked to him about the conversation which I had had with Dr. Seyss-Inquart at Garmisch, and I received no indication of any kind that he intended to dismiss me from his service. I was notified to this effect by a telephone call from Dr. Lammers on 4 February. This sudden dismissal, for which I was given no reasons, coinciding with the dismissals of Von Fritsch and Blomberg and of other leading diplomats, led however to one final conclusion. I was quite aware of the fact that this recall meant a change, at the very least, of the political direction. The following day I discussed the situation with the Austrian Minister for Foreign Affairs and told him of my troubles. Subsequently I took leave of the Austrian Government in an official note, and on the following day I went to see Hitler. I must, however, introduce the following: I considered this development, through the very fact of my recall, so serious that I decided on the evening of the 4th that all my political reports, compiled during those 4 years, were to be removed to Switzerland. I wanted to be in a position to prove to the whole world that I had pursued a peaceful and evolutionary policy in Austria during those 4 years; I wanted to be in a position to prove this to the outside world in case Hitler should commit an act of aggression. This decision, particularly on the part of a high-ranking official, was certainly not an easy one to reach, because I

would have to suffer all the consequences which this forbidden action might entail.

On the following day, I went to Hitler. I felt the urge to tell him that even if he no longer wanted me, he should at least send another reasonable and moderate man to Austria. During the discussion I had with him he did not mention the reasons for my dismissal. I had suspected that this was due to a wish of Herr Von Ribbentrop, who had become Minister for Foreign Affairs on this 4 February; but Hitler told me that this was not the case. During the discussion on the Austrian situation I told Hitler, *inter alia,* that I very much regretted that he had recalled me because, particularly during recent weeks, Chancellor Schuschnigg had declared himself willing to have a personal discussion with Hitler in order to eliminate all differences between the two States. When Hitler heard this, he told me, "If that is the case, then I should be very glad if you would go back to arrange for this discussion with Herr Schuschnigg." I told him, "That is rather a peculiar task. Yesterday you recalled me, and today you want me to go back. But if there is something I can do in the interest of the Austrian problem—if I can bring about such a discussion, I am only too willing to do it."

DR. KUBUSCHOK: How did you prepare that conference?

VON PAPEN: On my return, I went to see Herr Schuschnigg, and with him too, I discussed the change in the situation created by my recall and the appointment of the new German Minister for Foreign Affairs. I told Herr Schuschnigg, "It appears to me that in this situation a discussion between the two heads of State regarding the differences which have arisen from the interpretation of the July Agreement could be nothing but helpful." The Austrian Minister for Foreign Affairs has, as a matter of fact, confirmed that we had discussed those personal meetings as far back as November 1937. The proposal was that there should be in Berchtesgaden discussions about all the differences. No definite program was drafted. It was arranged that these conferences should take place on the basis of the July Agreement, that is to say, on the basis of the maintenance of Austria's sovereignty. The only essential problem discussed was the inclusion of a minister in the Austrian Cabinet who would act as the *homme de confiance* of both States and whose task would be to keep the peace between the Austrian and German National Socialist Parties, in other words, to eliminate in future all interference by the German Party in Austrian affairs.

Later on, during the Berchtesgaden conference, it was demanded that the Ministry for Security should be handed to Dr. Seyss-Inquart. This demand was entirely unknown to me, nor had I discussed it with Schuschnigg. It was merely mentioned that a suitable man,

perhaps Seyss-Inquart, should be given the Ministry of the Interior. Today we know from the testimony of witnesses that, in addition to this official conference of mine, there were Austrian Party channels through which proposals were sent to Hitler, proposals that were unknown to me.

DR. KUBUSCHOK: Please give us an idea of the course of the discussion at Berchtesgaden.

VON PAPEN: This conference has been repeatedly described here. I accompanied Herr Schuschnigg and Herr Schmidt there personally; and it is quite possible that when I received them at the Austrian or the German frontier, I told them that, in addition to Hitler, they might find one or several generals up there, because quite possibly I had telephoned to Berchtesgaden in the morning and learned that these generals were present.

The course of the conference differed, of course, very much from that of customary conferences of diplomatic life; but it was not quite so dramatic as has been described here by various sources. To my knowledge, these generals, called in by Hitler on the previous evening and unknown to me, were merely effective by their presence and were only meant to have that effect. As far as I know and within the framework of my own participation, they were not called in to join the political conferences.

The tone in which Hitler negotiated, the accusations which he hurled against Schuschnigg, were to my mind most unpleasant; and for that reason I repeatedly intervened as a mediator. I remember very well an incident which occurred when Hitler and Schuschnigg were negotiating together and the discussion became extraordinarily loud. I entered the conference room to find that Hitler was accusing Herr Schuschnigg of being no German, of lacking in national feeling, so that I intervened and told Herr Hitler, "You are completely misjudging Herr Schuschnigg. Herr Schuschnigg's way of thinking is as German as yours and mine, only he does not want a union of our two countries under the state doctrine which you are now representing in Germany." During this conference, a program was submitted to Herr Schuschnigg and Herr Schmidt, which was unknown to me personally, as I already said. After negotiating, a number of points were removed from this program, for instance, the commanding of the Austrian Army by General Von Glaise, and all economic demands; and therefore, toward evening, when the conference was coming to an end, I told Herr Schuschnigg that he had better accept the remainder so that further peaceful development should not be prejudiced. Apart from this, Herr Schuschnigg only made the express reservation in connection with this program or this agreement that the stipulations would have to be confirmed by the Austrian Government and the Austrian President. Therefore

the possibility for later correction on the part of Austria certainly was provided.

DR. KUBUSCHOK: In one point your relation has not been quite clear. Did you arrive at Berchtesgaden only when Schuschnigg and Dr. Schmidt did? Were you already in Berchtesgaden, or had you spent the night elsewhere?

VON PAPEN: I traveled from Vienna to Salzburg with Herr Schuschnigg, spent the night there with him, and went on with him the next morning to Berchtesgaden. In other words, I was not in Berchtesgaden before him. However, Herr Schuschnigg has alleged that the morning before our visit I told him that generals were up there. I cannot remember that; but it is possible, because it may be that I put a telephone call through from Salzburg in the morning and was told of it.

DR. KUBUSCHOK: There is one more point to be supplemented. Schuschnigg said that you met him at the border. Perhaps you can clear up that point, too.

VON PAPEN: Well, Herr Schuschnigg and I had spent the night together in Salzburg, as I have said. The next morning I went ahead as far as the border, and waited for him at the German border.

DR. KUBUSCHOK: Did the Berchtesgaden agreement differ basically from the Agreement of 11 July 1936?

VON PAPEN: The result of the Berchtesgaden arrangements was certainly an enlargement compared with the Agreement of July. But there was no departing from the basis of the July Agreement—from its principles, that is, the maintenance of Austrian sovereignty. This is evident also from the two communiqués by the Governments which were issued on the occasion of the acceptance of the agreement.

DR. KUBUSCHOK: I refer to the official communiqué, Document Number 78, Page 174; and also to Document Number 79, Page 175, Hitler's Reichstag speech of 20 February, with reference to this question.

On 26 February you paid an official farewell visit to Schuschnigg. The Prosecution have presented a file memorandum in this connection. Please tell us about this farewell visit.

VON PAPEN: This note from the files obviously contains the information I gave Herr Von Ribbentrop over the telephone regarding my farewell visit. In this note I drew the attention of the Foreign Office to the fact . . .

THE PRESIDENT: What is the date of this note?

DR. KUBUSCHOK: The file note is dated 26 February and was submitted by the Prosecution.

SIR DAVID MAXWELL-FYFE: Document Book 11a, Page 1.

VON PAPEN: In this memorandum I mention the pressure brought to bear on Schuschnigg and under which he acted. The fact that I informed the Foreign Office should really indicate that I personally disapproved of this pressure; otherwise I would not have made a report on it. On 26 February my temporary activities, then, were also fully at an end.

DR. KUBUSCHOK: On 9 March 1938 Schuschnigg proclaimed the plebiscite. Kindly comment on this.

VON PAPEN: The plebiscite announced by Herr Schuschnigg was, of course, a complete surprise. In my view it was contrary to the spirit of the arrangements agreed upon at Berchtesgaden and contrary to the tendency of a peaceful settlement of the tension.

The plebiscite was a violation of the Austrian Constitution, too. It was not a decision of the Austrian Government but was a spontaneous measure of the Austrian Chancellor, and in my opinion it was quite evident that those elements in Austria who were in favor of a union of the two States were most displeased with this plebiscite.

DR. KUBUSCHOK: The witness Rainer has said in his testimony, and in the speech which was quoted, that on the evening of 9 March he was at your apartment. Was this a prearranged conference, a conference at all, or an exchange of views?

VON PAPEN: Not at all. I was absent from Vienna from the evening of the 26th, as far as I remember, until about 9 March. On that day I returned to Vienna, and it is naturally possible that these gentlemen came to my Embassy and talked to me there. There was no question of anything prearranged on my part.

DR. KUBUSCHOK: Were you in Berlin on 11 March?

VON PAPEN: On the evening of 10 March a telephone call from the Reich Chancellery reached me at the Embassy with the order from Hitler to go to Berlin immediately that very night. I flew to Berlin the following morning and approximately between 9 and 10 in the morning I arrived at the Reich Chancellery. Why Hitler sent for me I do not know; I assumed that as this crisis developed he might want my advice; perhaps, too, he may have thought that my presence in Vienna would interfere with his plans. At any rate, on this fateful day, 11 March, I was in Berlin and at the Reich Chancellery. I met Hitler surrounded by numerous ministers, Herr Göring, Dr. Goebbels, Von Neurath, state secretaries, and also military people. He greeted me with the words: "The situation in Austria has become intolerable; Herr Schuschnigg is betraying the German idea and we cannot admit this forced plebiscite."

And when I saw how aroused he was, I reminded him again of his promise to me at Bayreuth and warned him urgently against

over-hasty decisions. But on this morning he told me, "Either the plebiscite must be canceled or the Government must resign."

Today we know from the letter, which he sent to Dr. Seyss by special courier, of this ultimatum to the Austrian Government. At that time he did not inform me of this active intervention on his part. Then during the day I, along with most of the persons present, remained in the large hall while Göring telephoned from Hitler's private office. What was telephoned is something we, who were waiting in the large hall, could only gather fragmentarily; but of course today we know it from the documents here.

There is only one incident which I want to mention. Toward 5 o'clock in the afternoon, the report came from Vienna that Schuschnigg's Government was prepared to resign. Thereupon I pressed Hitler to cancel his military orders. Herr Hitler did that. Between 5 and 6 o'clock in the afternoon the order to the military forces standing by was withdrawn. On that occasion I congratulated General Keitel and General Von Brauchitsch, who were present, on our being spared this issue. But 1 hour later the situation was once more entirely different. When a telephone call came through from Vienna stating that the Federal President refused to nominate a Seyss-Inquart Government, Hitler again issued the orders to the troops. Following that, late in the evening, it was learned that the Austrian Government had requested the entry of German troops, since otherwise they could not control the situation. I can still see Herr Von Neurath standing next to me telling me, "This is such an important report from Vienna that we absolutely have to have it in writing."

Thus we were under the impression that this call for assistance came to us from Vienna. The further events of the evening are known, and I can only say that I personally was deeply shaken by this turn of events because it was perfectly clear that marching in with the Army could lead to incidents and to bloodshed, and new bloodshed between our two nations would not only have badly compromised the German problem again, but would also leave the worst possible impression of the conduct of German policy.

DR. KUBUSCHOK: I draw your attention here to Document Number 97, Page 241, of the third document book. I beg your pardon, it is not yet contained in the book, it is just being presented—Document 97, Page 241. It is an affidavit by Thass, a friend of the witness Papen, who talked to him on the evening of 11 March. I quote approximately from the middle of the document:

> "On 11 March 1938, the beginning of the march of German troops into Austria, Herr Von Papen appeared at the Union Club late in the evening where he very excitedly and despairingly declared:

" 'I have just come from the Reich Chancellery. I tried to talk Hitler out of marching into Austria and strongly advised against it, but he has carried through with the madness and has just given the order to march into Austria.' "

Did you, Witness, know anything about the military plan "Case Otto"?

VON PAPEN: I have heard about this Case Otto for the first time during this Trial. The Case Otto was, it was stated, a theoretical preparation for a military attack in the event that, as a consequence of the restoration of the Hapsburgs, the Czechs and Hungarians should march into Austria.

THE PRESIDENT: This is exactly what the defendant was doing just now when I interrupted you. He said he did not know anything about the document and he is now trying to explain it. This is argument, not evidence.

DR. KUBUSCHOK: Yes, quite, Mr. President.

[Turning to the defendant.] Let us pass on to the next question. A little while ago you mentioned that you had decided that the files which were documentary proof for your activity in Vienna should be taken to Switzerland. Was this actually carried out later on?

VON PAPEN: Yes, that was done. My secretary, Herr Von Ketteler, took the files to Switzerland at the beginning of March 1938.

DR. KUBUSCHOK: Describe briefly the circumstances of the assassination of your assistant, Baron von Ketteler, after the entry of German troops into Austria. In particular, what did you do to have that case cleared up?

VON PAPEN: During the days of the march into Vienna my secretary and friend, Herr Von Ketteler, had suddenly disappeared. I informed the Viennese police at once, as well as Herr Himmler, Herr Heydrich, and Dr. Kaltenbrunner. They promised investigation. The investigation was for a long time without success. Originally I had assumed that Herr Von Ketteler had fled, since his relations with the Austrian Party had been very bad. But then a few weeks later it transpired that Von Ketteler's body was found in the Danube below Vienna. I filed a charge of murder by an unknown person with the public prosecutor. I requested a post-mortem examination of the body. The post-mortem examination took place with the result that no signs of death by force were found.

Nevertheless, I am perfectly certain that this new act was an act of revenge by the Gestapo against me and my policies and my friends. I addressed myself to Göring, who was in command of the Gestapo, and asked for his assistance. Göring demanded the files

from the Gestapo and told me that there was proof that Herr Von Ketteler had prepared an attempt on Hitler's life. I stated that that was quite out of the question. But then it was ascertained by Göring, through the Gestapo, that I had taken my files to Switzerland and that Herr Von Ketteler had assisted in this. Herr Göring promised me to negotiate with Hitler and to demand the punishment of the Gestapo people who had taken part in this case. I believe that he did that, but this intervention met with no success.

DR. KUBUSCHOK: After your departure from Vienna you retired to private life. Did you have new offers for posts abroad?

VON PAPEN: I retired to private life, since my experiences after the 30th of June and later in Austria were not such as to make me desire a new post. I can only say that, during the period following, Herr Von Ribbentrop asked me twice to go to Ankara as Ambassador and that I refused it twice.

DR. KUBUSCHOK: As a last question with reference to the Austrian complex, I want to ask whether Hitler awarded you the Golden Party Badge after the march into Vienna? Please make a statement on that.

VON PAPEN: That is correct. As we know, Hitler was accustomed to make sudden dismissals; and he had dismissed me abruptly on 4 February and solved the Austrian question without me. For public consumption he used to camouflage such acts with cordial letters and decorations. Perhaps I should have turned down this Golden Party Badge at that time, because I was no longer in any official position and there was no reason for my accepting it. However my position in those days was so difficult that I did not want to make it any worse. My assistant Ketteler had disappeared, and I had to expect that I might be involved in a State trial because I had removed my files to Switzerland. Thus I accepted the badge. But I deny that doing this established my Party membership. I believe that no one who knows me—even among the gentlemen sitting in this dock with me—will maintain that I was ever in my life a National Socialist.

DR. KUBUSCHOK: I now come to the discussion of a relatively brief period, that is, your time in Turkey. May I start on that now?

THE PRESIDENT: Why is it necessary to go into the affairs after the Anschluss in March 1938, in view of what the Prosecution has stated? I mean, does it throw any light upon the past? As I understand it . . .

DR. KUBUSCHOK: Mr. President, I have finished then with the entire Austrian complex. I now have to deal only with a brief subject, the defendant's activities during his time as Ambassador to

Ankara. I am only asking whether this would be a suitable moment to begin with this, or whether the Court wishes to recess. I shall have completely finished in about an hour.

THE PRESIDENT: We will in a moment, but what I was asking you was why is it necessary to go into the history of the defendant in Ankara in view of what the Prosecution have said with reference to their charges against the defendant? As I understand it, the Prosecution have said that they make no charges against the defendant in connection with his work at Ankara. Unless the history of that time throws light upon the past, upon the time up to March 1938, it does not appear to be relevant to this Trial.

DR. KUBUSCHOK: In discussing his activities in Turkey, I shall confine myself to a few points, for the sole purpose, as the Tribunal have observed, of throwing light on the previous activities of the Defendant Von Papen. The evidence will, therefore, refer to the fact that through his activities the defendant made it quite clear that he was a definite opponent of the war in every phase, and that in every phase of the war he merely tried to achieve peace. This material from the period in Turkey is, therefore, to furnish the counterevidence against the charge that previously the defendant had been in any way an active participant in the war policy. We must also get a complete picture of a man who is under the indictment of conspiracy. If he was in an official position directly before the outbreak of the war and during the war, then certainly we must investigate whether his attitude during that time does not supply precise counterevidence against his having been previously in any way in agreement with the plans which, it is true, were first executed during his early days in office. The questions are brief, and we shall . . .

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

DR. KUBUSCHOK: Under what circumstances were you appointed Ambassador to Ankara in April 1939? Why did you accept this post?

VON PAPEN: I accepted the post, after I had refused it twice, under quite extraordinary circumstances. On the day of Italy's occupation of Albania, Herr Von Ribbentrop called me up and urgently asked me to come to Berlin. There he explained to me that the post in Ankara, which had been vacant for 6 months, would have to be filled immediately because of the complications which might arise in the southeast from the occupation of Albania. Before I accepted this post I carefully considered whether I could do and had

to do anything more for the Hitler Government. After 15 March, the entry into Prague, we knew that we were sitting on a powder keg. In this European problem there were two possibilities of conflict; one was the Polish problem, where I could do nothing; the other was the southeast problem which had become acute through the occupation of Albania. I felt that I could do something here and could contribute to the maintenance of peace in Europe. For that reason I offered to go to Ankara at this moment.

DR. KUBUSCHOK: First you went to Ankara to obtain information; you obtained a picture of the situation there, and then in an oral and a written report you explained your opinion. Please comment on this.

VON PAPEN: In Ankara I immediately obtained a picture of the whole situation because I knew all the leading personalities there.

THE PRESIDENT: Dr. Kubuschok, you aren't proposing to take the defendant through all the intricacies of Turkish politics, are you?

DR. KUBUSCHOK: No, that is not my intention. The problem is dealt with in a report which the defendant made in Berlin not only to Hitler but also to other offices. The making of this report and its contents show a positive activity for the maintenance of peace. That is why I have gone into this affair briefly. And, Witness, I ask you to outline . . .

THE PRESIDENT: Have you got the report?

DR. KUBUSCHOK: No, this report is also in the files of the Foreign Office to which I do not have access.

THE PRESIDENT: Well, then, you had better deal with the subject, but deal with it shortly.

DR. KUBUSCHOK: Witness, please continue.

VON PAPEN: I will be very brief, My Lord. I came back from Turkey, and told Hitler in a report what had to be done in order to maintain European peace. I sent this memorandum also to Keitel and Brauchitsch. I stated in this report that it was necessary, in order to keep the situation in the southeast under control, for Italy immediately to give positive promises indicating that her military forces would be withdrawn from Albania and her relations with Turkey would be adjusted, in order to remove there any doubt in the sincerity of Italian policy. A very heated discussion on this advice followed between Count Ciano and myself. Count Ciano was in Berlin on that day to sign the German-Italian Alliance. When I made my suggestions to him, he was most indignant at these demands and complained about me to Herr Von Ribbentrop. A very heated discussion then took place with Herr Von Ribbentrop who told me that he was in charge of German foreign policy and not I,

and that it was after all not my task to make suggestions for keeping the peace. Then I offered my resignation to Herr Von Ribbentrop and told him it was useless under the circumstances to send me to Ankara; but Herr Von Ribbentrop withdrew his statement, and I returned.

DR. KUBUSCHOK: In this report, did you warn in general against a war adventure and what reasons did you give for this warning?

VON PAPEN: The memorandum which I gave also to General Keitel and General Brauchitsch also contained a military presentation of the situation, in which I stated that to begin a war over the Polish Corridor would of necessity lead to a world war. If such a world war were to break out, Germany's position would be hopeless, for there was no doubt that England would keep its promise to Poland and that England and France would come to Poland's aid.

DR. KUBUSCHOK: What was your reaction to the news about the outbreak of war on 1 September 1939?

VON PAPEN: When the news of the outbreak of the Polish war reached me in Ankara, I was profoundly shocked. I had, of course, hoped that Hitler would avoid this step which must plunge us into the greatest misfortune.

DR. KUBUSCHOK: I refer to Document 14, Page 62, an affidavit of the lady who was for long years private secretary of the witness Von Papen. I will quote a brief passage from Page 64, the second paragraph from the end:

> "I heard the radio announcement of the outbreak of war in the Embassy at Ankara with the Ambassador and the entire staff. Afterwards I walked in the Embassy park with the Ambassador. The Ambassador was extraordinarily excited and shaken. I had never seen him like this, not even after the darkest days of June 1934 and not even after the murder of his friend Ketteler.
>
> "That is why I can recall exactly every word which the Ambassador said to me on that occasion: 'Remember my words: To have provoked this war is the greatest crime and the greatest madness which Hitler and his people could have committed. Germany cannot win this war. All will be buried under the ruins.'"

Witness, what were your decisions for the future?

VON PAPEN: What could I do? I could either protest—then, in order not to be shot as a traitor in Germany, I would have to remain abroad. I could emigrate. I would never have done that, for I have always believed that one can work better in one's own country than

as an emigrant. I could resign; then I would return to Germany and become a soldier. The best thing, it seemed to me, was to remain where I was and where I could best help my fatherland.

DR. KUBUSCHOK: Now I come to discuss your various efforts toward peace. Please describe first your negotiations with the Dutch Minister, Dr. Visser.

VON PAPEN: Immediately after the Polish campaign I had negotiations with the Dutch Minister in Ankara, at that time Dr. Visser, who declared himself willing to have his Foreign Minister mediate in London. The condition for a peace would, of course, have been the restoration of Poland with a corresponding adjustment of the Corridor problem, the problem of the German sections.

I reported this possibility for peace negotiations to Herr Von Ribbentrop, but it seemed to me that it was not followed up in Berlin; and therefore in November 1939 I went to Berlin myself. Herr Von Ribbentrop told me, "The Führer does not want to hear anything of peace negotiations; please do not undertake any further steps."

Nevertheless I went to Hitler, reported the Dutch offer to him, and expressed the wish of the Dutch Minister, Dr. Visser, to come to Berlin personally. Unfortunately Hitler rejected all my arguments.

DR. KUBUSCHOK: I wish to point out that with the approval of the Court an interrogatory on this subject was sent to Minister Dr. Visser, but the interrogatory has not yet been received.

Did you make further suggestions as to ending the war in 1939? I am thinking in this connection of a report on the restoration of legal life in Germany.

VON PAPEN: Yes. In December of 1939 I sent a detailed report for Hitler to Herr Von Ribbentrop, and in this report I said that the first condition for any conclusion of peace and for any readiness abroad to conclude a peace would be the renunciation of the present government methods in Germany; that is, a return to constitutional conditions in Germany. Then I told Hitler, "If you do this, you will have more credit abroad; and it might be possible to prepare the way for peace negotiations."

DR. KUBUSCHOK: What was the instruction which you received from Berlin in regard to peace efforts, and what did you do nevertheless?

VON PAPEN: The Reich Foreign Minister repeatedly issued strict orders to the chiefs of missions under no circumstances to extend any peace feelers. In the opinion of the Foreign Office, such attempts would be a sign of weakness.

I did not observe this ruling because I was determined on my own initiative to do everything to shorten the war. For that reason, in the spring of 1941 before the Balkan crisis, I addressed myself to His Majesty the King of Sweden with the request to begin a peace mediation. I also asked the President of Turkey, Ismet Inönü, to consider the possibilities of mediating. President Inönü agreed to do so, while His Majesty the King of Sweden refused, saying that the situation did not seem to him suited to such efforts. The Turkish President asked only that he be officially requested to mediate. That, of course, was not done.

DR. KUBUSCHOK: What did you think about the events of 10 May 1940, the entry of German troops into Holland and Belgium; and what statement did you make in this connection?

VON PAPEN: On 10 May 1940 I visualized the impression which had dominated the whole first World War, the question of why Germany had violated Belgian neutrality. It was completely incomprehensible to me that this psychological error should be repeated a second time and I expressed this opinion of mine in a letter which I sent to the Dutch Minister, Dr. Visser, on 10 May.

DR. KUBUSCHOK: What did you do in order to check the spread of the war to the Balkans?

VON PAPEN: When the Yugoslav crisis broke out and our troops marched through Bulgaria, I had Hitler send a personal letter to the Turkish President. In this letter he assured the Turkish President that under no circumstances did he intend to fight Turkey, and for that reason he had ordered German troops to keep at 40 kilometers distance from the Turkish border.

DR. KUBUSCHOK: In June 1941 you concluded a treaty of friendship with Turkey. Will you state briefly the reasons for that?

VON PAPEN: The reasons were very simple: To limit the war. Turkey was to know that in spite of our alliance with Italy, in spite of the war in the Balkans, in spite of the war with Greece, we would never threaten Turkey. Turkey was also to know that we would not attempt to advance through Turkey to the Suez Canal. The negotiations were very long and difficult, because Herr Von Ribbentrop did not want in this treaty any mention of Turkey's contractual obligations to the Allies. I then pointed out to Herr Von Ribbentrop by cable that the Turks were faithful to their treaties.

DR. KUBUSCHOK: Did you know of Hitler's intentions against Russia? What did you think about this war?

VON PAPEN: The beginning of the war with Russia was, of course, a complete surprise to us. We had heard of the massing of troops on both sides, but of course I assumed and hoped that Hitler

would keep his pact with Russia and that he would not begin this war. I considered the beginning of the war against Russia a crime, from the point of view of German as well as European interests.

DR. KUBUSCHOK: Did you, after you returned from a visit to Germany in the fall of 1943, continue your efforts toward peace?

VON PAPEN: In the fall of 1943, after Stalingrad, it had become clear that no peace could be established with the Hitler Government. Regarding this, there was much discussion between me and my friends, including my military friends. In the fall of 1943 I was initiated into the so-called Beck Plan, which has been mentioned here by the witness Gisevius. At that time this plan did not intend to eliminate Hitler through an attack on his life, but the intention was to have his headquarters surrounded by troops and then to put Hitler on trial. The reasons for this were obvious. Even if many generals were of the opinion that this war had to be stopped, they were afraid of taking action against Hitler because they were of the opinion that Hitler still enjoyed very great prestige. Moreover, there was the further difficulty that if Hitler were removed, no one knew what the Allies would do with us.

THE PRESIDENT: The Tribunal thinks this should be taken more shortly, Dr. Kubuschok.

VON PAPEN: As a result of all these considerations, I attempted to learn what the Allies would do with Germany in such a case; and for this purpose I turned to the American Minister, at that time Mr. Earle, who reported on the matter in the press, too.

DR. KUBUSCHOK: I refer to Document Number 93, Page 214. This is the interrogatory of Freiherr von Lersner, whom I wanted to call as a witness but who could not come here because of transportation difficulties. On Page 214, the answer to Question 7 is:

> "My activities for the mediation of peace negotiations were always based on my own initiative and extended to the attempt to mediate general world peace between all belligerent states. Prior to all peace measures, I engaged in detailed discussions with Ambassador Von Papen and was always warmly supported by him to the utmost, although every peace measure was forbidden him and was at least as perilous for him as for me.
>
> "He also made me acquainted with a number of foreigners, above all with the Apostolic Delegate to Istanbul, Archbishop Roncalli.
>
> "When in 1942 I resolved to go to the Vatican, not only did Ambassador Von Papen urgently advise me to make the trip; but he also personally procured for me all the necessary papers and passports for Rome, where in spite of the express

prohibition of the Reich Government I suggested to Cardinal Maglione and the diplomatic director of the Curia, Bishop Montini, a world peace drive by Pope Pius XII with all belligerent powers.

"When in April 1944 I had the opportunity to establish contact with Mr. George Earle, the former American Minister to Vienna and Sofia, the friend of President Roosevelt, with whom I had long been personally acquainted, Papen again helped me in every way. He even took it upon himself . . ."

THE PRESIDENT: These are details. Is it not sufficient to say that the defendant said that he endeavored in every way to make peace? Then you can refer, if you like, to any interrogatories or affidavits which confirm what the defendant says.

DR. KUBUSCHOK: Very well. I will dispense with any further reading of this answer to Question Number 7, and I refer then to Document 94, Page 217, a letter of the witness Lersner to Mr. Kirkpatrick. He makes reference in the letter to the fact that as early as 1939 the Defendant Von Papen intended to bring Lersner to Turkey, so that on the basis of his international connections he could work for peace. He describes the difficulties in connection with this plan, which, however, was carried out by Papen. The letter also mentions further peace efforts with Admiral Von Horthy and with King Boris of Bulgaria. I should like briefly to give documentary corroboration to the questions raised by the witness Gisevius. I wish to present evidence that Von Papen was by no means unfavorably received in the circle of the conspirators of 20 July, but that on the contrary he was scheduled for the office of Foreign Minister. I refer to the affidavit of Count Bismarck, Document Number 90, Page 201. Count Bismarck, in the course of the events following 20 July, was sent to a concentration camp. This indicates the character of the witness. In Document Number 90 Bismarck points out that in case of a change of government Papen would have placed himself at their disposal. There was an agreement to send communications through Herr Von Trott, who worked in the Foreign Office. Trott was condemned to death following the events of 20 July.

Finally I refer to Document Number 89, Page 199, a letter from Pfeil to the son of the witness Papen. Pfeil points out that Colonel Count von Stauffenberg, the would-be murderer of 20 July, had proposed to the defendant that he serve as Foreign Minister later. The Court has already admitted this letter.

Witness, what was your position as regards the Party during your period in Turkey?

VON PAPEN: My position as regards the Party was exceptionally bad. For years I waged a battle with the Landesgruppenleiter

of the Party in Turkey. This man told my Embassy officials, "Herr Von Papen belongs in a concentration camp, or he must be shot." I had to struggle a long time to have this man removed.

DR. KUBUSCHOK: What did you do during this time regarding Church matters?

VON PAPEN: During the war I did everything in my power to counteract an intensification of the fight against the Church. That means that I took all such institutions in Turkey under my personal protection.

DR. KUBUSCHOK: I refer here to Document Number 53, Page 141, and Document Number 51, Page 138.

What did you do with respect to the Jewish problem during your period in Turkey?

VON PAPEN: I opposed all measures of the German Government against German Jews. A long Party trial took place because German members of my Embassy had consulted a Jewish doctor. I defended these officials of mine against this charge, and I refused to take away the passports of the German Jews in Turkey and to deprive them of their citizenship.

DR. KUBUSCHOK: I refer to Document Number 95, Page 227, the interrogatory of Professor Marchionini. In Questions 4, 5, and 6 he discusses this problem. In the answer to Question 6, the last paragraph is very noteworthy, and as the witness Von Papen has not yet mentioned it I should like to quote it. Page 229, the last paragraph of the answer to Question 6:

> "I remember particularly clearly an incident in the spring of 1944, when I called upon Herr Von Papen at the request of Mr. Barlas, the Refugee Commissioner of the Jewish Agency, in order to request his assistance in saving 10,000 Jews in France from deportation to Poland for extermination. These Jews had formerly held Turkish nationality but they had later given it up. Herr Von Papen complied with my wish and through his intervention the lives of these Jews were saved, as I learned later from Mr. Barlas himself."

I continue to quote:

> "Details of this incident, on which Mr. Steinhardt, then United States Ambassador in Ankara, and Numan Menemencioglu, then Foreign Minister of Turkey, were also informed, can be obtained by questioning Mr. Barlas."

THE PRESIDENT: I would like to point out to you again, Dr. Kubuschok, that you have taken very much longer than you said you were going to take.

DR. KUBUSCHOK: In a very short time, in a few minutes, I will be through.

I ask the last question of the witness: When, on 2 August 1944 Turkey broke off relations with Germany, you returned to Germany, why did you not remain in Turkey and separate finally from Germany?

VON PAPEN: I can state that on the day of the severance of relations between Turkey and Germany the British Prime Minister Mr. Churchill said the following in the House of Commons: "The breaking-off of relations between Turkey and Germany will have many consequences, including consequences for Herr Von Papen. On 30 June he escaped the blood bath. This time he will not succeed."

As a result, I received requests from the Allies to remain in Turkey. I refused to do so. I said, "I shall return to Germany where I belong. I will not emigrate, for perhaps I might still do something for my fatherland." Thus I returned to Germany. When I arrived there I observed that as a result of the terror methods which had been launched after 20 July there was no possibility at all of doing anything. For the rest of the time a Gestapo guard was placed before my door.

DR. KUBUSCHOK: I refer to Document Number 95, Page 226, which has already been mentioned, the interrogatory of Professor Marchionini. I refer to the answer to Question 3 and I should like very briefly to read the last half of this answer in connection with the problem just mentioned by the witness:

> "The last conversation on this subject took place on 2 August 1944, on the day before his final departure from Ankara after the breaking-off of diplomatic relations between Germany and Turkey.
>
> "To my advice not to leave Turkey, but to address an appeal from here to the German people and the German Army to overthrow Hitler and discontinue the senseless war immediately, Von Papen answered in substance as follows:
>
> "'I have learned from history that dictatorships cannot be done away with from a foreign country; one must be in the country itself in order to fight the regime effectively. Therefore, I have determined to return to Germany and to conduct the fight against the Hitler regime there and thus hasten the end of the war.'"

DR. KUBUSCHOK: I have finished questioning the witness Von Papen.

THE PRESIDENT: Does any other member of Defense Counsel want to ask any questions?

DR. VON LÜDINGHAUSEN: Herr Von Papen, I should like to ask you a few questions, with the permission of the Court.

How long have you known Herr Von Neurath?

VON PAPEN: Since 1932.

DR. VON LÜDINGHAUSEN: Is it true that it was the express wish of the then Reich President Von Hindenburg that Herr Von Neurath was to be taken into the Government which you formed in 1932, as Reich Foreign Minister?

VON PAPEN: Yes, that is entirely true.

DR. VON LÜDINGHAUSEN: Were you aware, or did you know from previous activities of Herr Von Neurath in his various positions as Ambassador but especially in his last post in London, that Herr Von Neurath was a faithful follower and an impassioned champion of a policy of peace?

VON PAPEN: That was known to me and to everyone in Germany.

DR. VON LÜDINGHAUSEN: And you yourself approved of this also?

THE PRESIDENT: I think you are going a little too fast. Go on.

DR. VON LÜDINGHAUSEN: Did you yourself also approve of this peace policy?

VON PAPEN: Of course I approved of this policy. Otherwise we would not have found ourselves side by side in this Cabinet engaged in common work.

DR. VON LÜDINGHAUSEN: Did Herr Von Neurath, a few months later, take any part in the negotiations leading to the transfer of the Reich Chancellorship to Hitler?

VON PAPEN: In no way.

DR. VON LÜDINGHAUSEN: But do you know that Reich President Von Hindenburg made the express condition that Herr Von Neurath was to remain as Reich Foreign Minister also in the new Hitler Government?

VON PAPEN: I have already mentioned here that this was an express condition of Hindenburg's.

DR. VON LÜDINGHAUSEN: And what was Hitler's attitude to that in principle? Did he accept it only in order to be able to form the Government at all, or did he approve of Hindenburg's choice?

VON PAPEN: I believe that Hitler approved completely of the choice of Neurath as Foreign Minister.

DR. VON LÜDINGHAUSEN: Did you yourself ever talk to Hitler about this?

VON PAPEN: Yes, frequently. And I learned from Hitler that he thought highly of Herr Von Neurath's personality and capacity.

DR. VON LÜDINGHAUSEN: And did you ever talk to Herr Von Neurath himself about it?

VON PAPEN: Yes.

DR. VON LÜDINGHAUSEN: Did he make the decision to form this Cabinet readily?

VON PAPEN: I imagine that Herr Von Neurath also had the same inner reservations I had at that time.

DR. VON LÜDINGHAUSEN: Now, according to your knowledge, as far as you could learn from statements of Hitler's, what were Hitler's foreign political aims and efforts at that time?

VON PAPEN: Hitler's foreign political aims at that time were quite limited: Abolition of discrimination by peaceful means and by strengthening Germany's position in the world.

DR. VON LÜDINGHAUSEN: Until the end of 1937, did you ever hear any statements from Hitler indicating that he might be determined to use armed force if his peaceful efforts did not have the desired result?

VON PAPEN: I never heard from Hitler of any such intentions.

DR. VON LÜDINGHAUSEN: And then it is always asserted that in leading Party circles he expressed such sanguinary intentions?

VON PAPEN: I never heard that in the Party, even among the most radical National Socialists, anyone ever spoke of the idea of a war.

DR. VON LÜDINGHAUSEN: Then to sum up, you agreed fully with the aims of a peaceful policy that were intended and advocated by Herr Von Neurath?

VON PAPEN: Absolutely.

DR. VON LÜDINGHAUSEN: Now the charge is made against Herr Von Neurath of having co-operated in the rearmament of Germany. What was Hitler's reason and motive for this rearmament, which it may be supposed started before the actual taking over of the military sovereignty?

VON PAPEN: I stated yesterday that the actual rearmament began only after I had resigned from the Cabinet. But as far as I am informed, all of my former colleagues held the view that a rearmament was only to serve the purpose of giving Germany a defensive protection for her borders.

DR. VON LÜDINGHAUSEN: Now I come to the problem of Austria. Do you know the attitude of Herr Von Neurath concerning the Austria problem?

VON PAPEN: Herr Von Neurath's attitude concerning the Austria problem was the same as mine. Like myself, he constantly protested in the Cabinet against the terror measures staged by the Party in 1933 and 1934.

DR. VON LÜDINGHAUSEN: Were you yourself, when Hitler sent you on an extraordinary mission to Vienna, under Herr Von Neurath? And did you receive your instructions from him or only from Hitler?

VON PAPEN: I was not subordinate to Herr Von Neurath but had asked that I might be directly subordinate to Hitler. But, of course, I reported all steps which I took to Herr Von Neurath and the Foreign Office, as is proved by the documents submitted here.

DR. VON LÜDINGHAUSEN: What was Herr Von Neurath's attitude toward the negotiations in the summer of 1936 which led to the Agreement of 11 July between Germany and Austria?

VON PAPEN: Herr Von Neurath had exactly the same opinion as I had, that this agreement was to serve and had to serve the cause, once and for all, of peace between these two peoples of the same race.

DR. VON LÜDINGHAUSEN: Did he influence Hitler in this direction, too?

VON PAPEN: I do not know, but I certainly assume he did.

DR. VON LÜDINGHAUSEN: And that he was honest and sincere in this agreement? What is your opinion? I point out here that the Prosecution asserts and makes it a charge against Herr Von Neurath that this agreement was concluded with a treacherous intention.

VON PAPEN: I spoke in detail on that point yesterday, and protested against the Prosecution's charging us with treacherous intentions. Herr Von Neurath had such intentions just as little as I did.

DR. VON LÜDINGHAUSEN: Now I have two more brief questions.

Do you know what attitude Herr Von Neurath took as to Germany's leaving the League of Nations and the Disarmament Conference in 1933?

VON PAPEN: Yes, I know that very well. Herr Von Neurath was of the opinion that it was advisable to leave the Disarmament Conference. But, like me, he was of the opinion that it was a

mistake to leave the League of Nations. With his approval, as I told the Court yesterday, I followed Hitler to Munich at that time in order to persuade him not to leave the League of Nations.

DR. VON LÜDINGHAUSEN: I have no more questions, Mr. President.

DR. SEIDL: With the approval of the Court, substituting for my absent colleague, Dr. Stahmer, I should like to ask a question on behalf of the Defendant Göring.

Witness, this morning you said that in connection with the murder of your friend Ketteler in 1938 you turned to Göring because he was in charge of the Gestapo. Is it not a fact, and were you not aware of this fact, that from 1936 on, at the latest, the Gestapo was exclusively under Himmler and was formally under the Reich Minister of the Interior?

VON PAPEN: It is possible that through my 4 years' absence from Germany in Austria I did not know that fact. It has been established here, of course. In any case, I had the feeling when I turned to Göring that he was in a position to defend me against the Gestapo; and after Hitler had refused to speak to me on this matter, it was only natural that I should turn to him as the second man in Germany.

DR. SEIDL: I have no more questions.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

Sir David, would you prefer to start after the adjournment?

SIR DAVID MAXWELL-FYFE: My Lord, I was thinking that I might have the documents arranged then and it might be more convenient for the Tribunal.

THE PRESIDENT: We will sit again at 5 minutes to 2.

SIR DAVID MAXWELL-FYFE: I am very much obliged, Your Lordship.

[The Tribunal recessed until 1355 hours.]

Afternoon Session

SIR DAVID MAXWELL-FYFE: Defendant, do you remember saying in your interrogation on 19 September of last year that your present view was that Hitler was the greatest crook that you had ever seen in your life?

VON PAPEN: That is quite true. That is the opinion which I arrived at after I learned here of all the crimes.

SIR DAVID MAXWELL-FYFE: Well, that was on 19 September 1945. But I am more interested in your next answer. Was that not when you were asked when you made your mind up that Hitler was the greatest crook you had ever seen in your life, "only after I have known the facts after which he started to go to war"?

Do you remember saying that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Was not that rather a long time for you to discover that somewhat obvious truth after your close co-operation with Hitler?

VON PAPEN: My opinion about Hitler and his inner political significance was completely clear after 30 June 1934. But, like all other human beings, I could assume that in the field of foreign politics at least he would be sensible and I was of this opinion until after the Munich Agreement.

SIR DAVID MAXWELL-FYFE: Well now, just let us see whether you had not had an opportunity of forming that view much earlier. When you were Reich Chancellor in 1932 it was necessary for you to acquaint yourself with the personalities and aims and methods of the Nazi Party, was it not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And you did so, did you not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And you remember—I do not want to delay by referring to the document, but you may take it as an exact quotation—that on 16 November 1932 Hitler wrote to you and said: "You must be aware of my attitude and the attitude of my Party."

VON PAPEN: Of course, I knew the aims of his Party; but I may add, if a party forms a coalition with another party it has to eliminate a great deal from its program and form a coalition program. That was what Hitler did on 30 January.

SIR DAVID MAXWELL-FYFE: Yes, but before we come to 30 January I want to ask you—get your view in 1932. You had very little doubt in 1932, during the period of your Chancellorship, that if Hitler got into power Germany was in danger of being ruled by violent and unconstitutional methods, had you not, if Hitler got into power?

VON PAPEN: Doubtless the program of the National Socialists was revolutionary in this connection, but I explained in detail to the Court that when we came to this forced solution of 30 January we established a number of safeguards and drew up a joint coalition program which in our opinion eliminated the points of danger which you have mentioned.

SIR DAVID MAXWELL-FYFE: It was very strongly the view of President Von Hindenburg in the middle of 1932 that it would be most dangerous to put power into Hitler's hands, was it not?

VON PAPEN: Yes, that was indeed his opinion, that Hitler had to be controlled by restricting his power.

SIR DAVID MAXWELL-FYFE: I just will give you one sentence from the affidavit of Herr Meissner, which the Tribunal will find in Document Book 11a on Page 43. This will be GB-495. The number is 3309-PS.

This was after, in August 1932. According to Meissner:

"Hindenburg stated that because of the tense situation he could not with a clear conscience risk transferring the power of government to a new party, such as the National Socialists, which did not command a majority and which was intolerant, noisy, and undisciplined."

That is a very moderate statement of the Reich President's views at that time, is it not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And you know, Defendant—I am not talking about a coalition, I am talking about if the National Socialists came into power themselves—it was obvious to you that they had few scruples and would make short work of their political opponents, is that not so?

VON PAPEN: One cannot say that. In political life it always happens that a radical party—any party, but particularly a radical party—if it comes to power and is made responsible, has to eliminate much of its program. For example, we have seen that in the case of the socialist parties of all countries.

SIR DAVID MAXWELL-FYFE: Now, is it true, as the Defendant Göring stated under oath, that he told you in 1932 that whatever else the Nazis would do Hitler would not become a "Vice" or

second man; that he would oppose any political set-up which did not give him the first place? Is that correct?

VON PAPEN: Yes, Hitler always told me that.

SIR DAVID MAXWELL-FYFE: And therefore you realized that Hitler and his accomplices wanted a full opportunity to put their program and intentions into effect, did you not?

VON PAPEN: No, I did not know that. That is a statement which you make here which does not reflect the conditions at that time. You need only read the government program, our coalition of 1 February.

SIR DAVID MAXWELL-FYFE: Defendant, do not be afraid that I am not coming to the period of your coalition of 30 January. For the moment I am just asking you one or two questions about your view of Hitler, and Hindenburg's view of Hitler in 1932 because I want to take it by very quick but very clear stages.

I am still asking you about 1932. The question I put to you was: Did you realize that if Hitler and his accomplices came into power they wanted, and would be content only with, a full opportunity of putting their program and intentions into effect?

VON PAPEN: No, I did not know that; otherwise I would not have made the attempt in 1933 to bring them into a joint coalition program.

SIR DAVID MAXWELL-FYFE: Now, you have told us, I think, but I just want to get it quite clear, that your views as to what was necessary for Germany in the second half of 1932 was an easing of the political differences and strife internally, and an adjustment of relations with the Western Powers to ease the requirements of Versailles. I am trying to put it quite shortly as I understand it from you. That is right?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And were these aims—I think your first approach was to invite Hitler to be Vice Chancellor in your Government in August 1932, was it not?

VON PAPEN: That is quite right.

SIR DAVID MAXWELL-FYFE: Hitler refused that and he refused a repetition of your offer in November 1932, is that not right?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Now, in order to save time I just want to see if Herr Meissner puts the position correctly in Paragraphs 6 and 7 of his affidavit. I will summarize it for you, and believe me, I will be most pleased to read anything of which you have any doubt. He puts it in this way: That in November 1932 you

thought that the general situation and the Nazi Party, in particular, could be controlled if the President gave you the power to make decrees under Article 48 and you had the support of the Reichswehr and the Police, and at that time General Von Schleicher disagreed because he thought that the Reichswehr was not capable of keeping order in Germany. Is that right?

VON PAPEN: It is incorrect insofar as this process cannot be covered by any paragraph of the Constitution, but constitutes a breach of the Constitution. Otherwise it is correct.

SIR DAVID MAXWELL-FYFE: That he might have had to use ultra-constitutional methods to keep control, is that what you mean?

VON PAPEN: Yes. As I have said here he gave me this assignment on 1 December.

SIR DAVID MAXWELL-FYFE: Yes, but originally, is Meissner right in saying that you desired, after you had failed to get Hitler into your Government, to rule by decree and by keeping control with the Reichswehr, and General Von Schleicher said that it could not be done?

VON PAPEN: Now, that is not true. After President Von Hindenburg had decided that he did not want to break the Constitution he appointed General Von Schleicher Reich Chancellor, as is well known. At that time Herr Von Schleicher wanted to create a majority by splitting the Party and, of course, I supported this attempt of Herr Von Schleicher's.

SIR DAVID MAXWELL-FYFE: Just in case it is any mistake of mine may I just give you Meissner's own words. It is Paragraph 5, Page 44 of Document Book 11a. I think, Defendant, it would be convenient for you to follow it, if you do not mind, so that there is no possibility of mistake.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: It is Paragraph 5 of Herr Meissner's statement:

> "Papen's reappointment as Chancellor by President Hindenburg would probably have taken place if he had been prepared to take up an open fight against the National Socialists, which would have involved the threat or use of force. Almost up to the time of his resignation Papen and some of the other ministers agreed on the necessity for pressing the fight against the Nazis by employing all means at the disposal of the State and taking recourse to Article 48 of the Constitution, even if this might lead to armed conflict. But the other ministers believed that such a course would lead to civil war.

"The decision was provided by Schleicher who earlier had recommended energetic action against the National Socialists even if this meant the use of the Police and the Army. Then in the decisive Cabinet meeting he abandoned this idea and declared himself ready for an understanding with Hitler."

Is that correct?

VON PAPEN: In part it is correct, and in part it is not correct.

SIR DAVID MAXWELL-FYFE: Now tell us as shortly as you can the part which is not correct.

VON PAPEN: My reappointment as Chancellor by Hindenburg, as Herr Meissner puts it, would have been possible if I had been ready to wage an open battle against the Nazis. That is completely false historically. On 1 December I suggested to Hindenburg that he violate the Constitution and thereby wage open battle against the Nazi Party. Herr Von Schleicher contradicted that. That is the historical truth.

SIR DAVID MAXWELL-FYFE: Just so that we will have it in sequence, if you will look at Paragraph 6 of the same document, about the second sentence, it begins:

"When it became clear that Hitler was not willing to enter Schleicher's Cabinet, and that Schleicher on his part was unable to split the National Socialist Party as he had hoped to do with the help of Gregor Strasser, the policy for which Schleicher had been appointed Chancellor was shipwrecked. Schleicher was aware that Hitler was particularly embittered against him and would never agree to co-operate with him. Therefore he changed his mind and decided to fight against the Nazis, which meant that he now wanted to pursue the policy which he had sharply opposed a few weeks before, when Papen had suggested it."

Is that right?

VON PAPEN: That is quite right.

SIR DAVID MAXWELL-FYFE: Now, you see—I want to get the position quite clear. You told us that you had approached Hitler first in August; before you approached Hitler you had already legalized the position of the SA and the SS, which had been made illegal by Chancellor Brüning. You did that on 14 June, did you not?

VON PAPEN: I had lifted the prohibition, yes, but only for 4 weeks.

SIR DAVID MAXWELL-FYFE: Did you think it was a good thing to lift the prohibition against the SA, the terror of the streets?

VON PAPEN: I stated expressly to the Court how the lifting of this prohibition came about. The intention was to bring Hitler and

his Party to tolerate my Cabinet. The second reason was that the prohibition of these formations was one-sided, if the socialist and communist fighting formations were not also prohibited.

SIR DAVID MAXWELL-FYFE: And on 20 July you had forcefully got rid of the Braun-Severing Government and got control of Prussia and the Prussian police under your own hand?

VON PAPEN: It cannot be expressed in that way, no.

SIR DAVID MAXWELL-FYFE: Well, you had got rid of the Braun-Severing Government and got power over Prussia and the Prussian police under your own hands, had you not?

VON PAPEN: I did not have the Prussian police in my hands. The Reich Commissioner for Prussia, whom I had appointed—a very moderate man—now had charge of the Prussian police.

SIR DAVID MAXWELL-FYFE: And under the Weimar Constitution you, as Chancellor, had the right to dictate all lines of broad policy, and the Commissioner for Prussia and every other minister had to take his broad policy from you; was that not right?

VON PAPEN: After I had appointed a commissioner, I had the right to determine the general lines of policy for Prussia.

SIR DAVID MAXWELL-FYFE: Now, I would just like you to look at a speech of yours which you made at Essen in November 1933, where you speak about this time.

It is Document Book 11, Page 54, and it is Page 47 of the German document book.

[Turning to the defendant.] Now, you see the introductory words:

> "Ever since Providence called upon me to become the pioneer of the national resurrection and the rebirth of our homeland, I have tried to support with all my strength the work of the National Socialist movement and its leader."

Is that true?

VON PAPEN: Absolutely, yes, that refers to . . .

SIR DAVID MAXWELL-FYFE: I just asked you if it is true. I may come back to it again.

> "Just as I, when I took over the Chancellorship"—that refers to you, your taking over the Chancellorship—"advocated paving the way to power for the young fighting liberation movement."

Was your work in paving the way to power for the young fighting liberation movement to legalize the SA and to turn out the moderate Government in Prussia and centralize the control of the police?

VON PAPEN: No, that would have been a very bad comparison.

SIR DAVID MAXWELL-FYFE: Just pause there and tell me if that was not what you had done. Tell the Tribunal how you had paved the way to power for the young fighting liberation movement, if it was not by doing that.

VON PAPEN: Yes, I will say that very exactly. The program of the National Socialist Party provided for the liberation of Germany from the discrimination to which we were subjected by the Versailles Treaty. I have spoken here in detail about this. I have explained what efforts I made to obtain the co-operation of the big powers in this connection. We wanted to become a big power again, after being a second-rate nation. That was the meaning of it.

SIR DAVID MAXWELL-FYFE: Defendant, I do not want to stop you, and the Tribunal will give you every opportunity of repeating what you said on that point, but I do want you to answer my question. If I am wrong in what I have put to you as the two things you have done to pave the way, just tell us quite shortly: What else had you done to pave the way for this fighting liberation movement? That is the question. What had you done?

VON PAPEN: I had asked Hitler twice to join my own Government, and, when at the end of January 1933 there was no other way out, I formed a coalition at Hindenburg's request with the National Socialist Party.

SIR DAVID MAXWELL-FYFE: Now, did you believe at that time that Hitler was absolutely necessary for Germany?

VON PAPEN: I was of the opinion that a man who in March 1932, before I was in the Government, had 36.8 percent of all German votes in the presidential election, that that man and his party had to be included in responsible government work.

SIR DAVID MAXWELL-FYFE: But beyond his electoral success, did you think that Hitler, from his personality, aims, and program, was essential for Germany at that time?

VON PAPEN: I do not know how a party which controlled 36.8 percent of all German votes could be dealt with by means of the police.

SIR DAVID MAXWELL-FYFE: Look at your own words in the next paragraph of that letter. You do not seem to refer to merely electoral success:

> "The dear Lord has blessed Germany by giving it in times of deep distress a leader who will lead it through all crises and moments of danger, with the assured instinct of the statesman, into a happy future."

That was, shall we say—we will not say extravagant—but rather strong language for an ex-cavalry officer to use of a political figure

if he did not think, or if he did not want other people to think, that he firmly believed in him. Did you really mean what you are saying there?

VON PAPEN: May I say the following in answer? After I had formed the coalition with Hitler, I was convinced that he would keep this pact of coalition, and repeatedly—not only in this speech—I professed my allegiance to Hitler and to our joint program, and I have already told the Court why I took his part precisely in this speech. This was a question of stating before the whole world that Hitler's solemn promise to keep peace was a serious promise to which we all subscribed.

SIR DAVID MAXWELL-FYFE: Well, now, I am not going to delay. You understand that what I am putting to you, Defendant, is this: That during the early months of your Chancellorship you took action and tried to get Hitler to come in with you. When he refused you for the second time, you then, according to Meissner, were prepared to use force against him. When that was refused to you through Schleicher, you resigned. When Schleicher took over and got into difficulties, you turned around to Hitler again. That is what I am putting to you; and it was at your request, was it not, that you and Hitler had the meeting at the house of Kurt von Schröder on 4 January 1933?

VON PAPEN: No, that is a completely false idea. Unfortunately, the Court did not permit me to go into detail about this meeting on 4 January.

SIR DAVID MAXWELL-FYFE: Well, do you disagree with Von Schröder that it was at your request that the meeting took place?

VON PAPEN: Yes, I am of an entirely different opinion. This meeting took place at Hitler's wish.

THE PRESIDENT: Will you ask him to tell us about that meeting on 4 January?

SIR DAVID MAXWELL-FYFE: Yes, certainly; I am going to deal with it.

Well, now, do you say that Hitler asked for the meeting? I am suggesting to you, you see, that Von Schröder, who was the intermediary, says that you asked for the meeting. Do you disagree with that?

VON PAPEN: Yes, I am of an entirely different opinion. What Herr Von Schröder says does not correspond to the facts. Herr Von Schröder . . .

SIR DAVID MAXWELL-FYFE: Well, you tell the Tribunal who arranged it.

DR. KUBUSCHOK: I object to the use of the Schröder affidavit. The document was to be submitted when the Prosecution presented its evidence. I asked that the witness be called since he is located nearby. The Court asked the Prosecution to bring the witness. The Prosecution chose not to call the witness. Now, in cross-examination, the affidavit is to be used. I do not believe that that is permissible, since the decision of the Court would be crossed. The Court decided on the use of the affidavit in conjunction with the witness. Now it would be used without the witness.

SIR DAVID MAXWELL-FYFE: My Lord, it is quite true. I should submit that it is a different matter using it in cross-examination when Dr. Kubuschok has put in as part of his own evidence—evidence from Schulthess' *Calendar of European History*—an account of this very meeting, which you will find in Volume I, Page 27, of his document book, and then, surely, if evidence of this kind has been put in a document book, I am entitled to challenge that evidence in cross-examination by the affidavit of Von Schröder.

My Lord, I am sorry, I should have gone further. My friend has put in an actual statement from Baron von Schröder, which appears on Page 26. He says that at the same time Baron von Schröder handed the following declaration to the County Bureau to correct the false press news.

> "The initiative for bringing about a discussion between former Reich Chancellor Von Papen, as the representative of the widest National Conservative circles, and Herr Hitler, as the sole leader of the National Socialist movement, emanated solely from me personally."

I should have thought that, inasmuch as a statement from Von Schröder has been put in, I am entitled to challenge that with another statement of Von Schröder.

DR. KUBUSCHOK: May I say something, Mr. President?

There are two entirely different things here. Sir David is referring to a document which I produced from Schulthess' *Calendar of History*. That is a joint communiqué by Papen and Schröder, which was published in the papers at the time. I object, however, to an affidavit of the witness Schröder, and I pointed it out at the time. The Prosecution agreed with me at that time that Schröder was a person open to suspicion under the Indictment and that he himself was involved in the matter to such an extent that producing an affidavit is possible only if we have an opportunity to put the appropriate question to Von Schröder. At any rate, what is here is nothing but a copy of contemporary documents from the historical calendar by Schulthess. These documents, in agreement with the Prosecution, were accepted by the Court.

THE PRESIDENT: Sir David, can you not put the facts without relying on the document?

SIR DAVID MAXWELL-FYFE: I can quite easily, My Lord; I will do that.

At this meeting, Defendant, did you not suggest—I am sorry, I apologize. I think we should have gotten the surroundings. First we will get where it was and who was there.

It was in Baron von Schröder's house in Cologne, I think, or his flat in Cologne; is that not right?

VON PAPEN: Yes, but no friend of mine.

SIR DAVID MAXWELL-FYFE: Now, the people who were in the house—and I will come to who were present at the meeting: Hitler's party, that is, himself, the Defendant Hess, Himmler, and Keppler, was it not?

VON PAPEN: That is possible, yes.

SIR DAVID MAXWELL-FYFE: Keppler is the gentleman of whom the Tribunal have heard as being in Vienna in March of 1938, is that not so?

VON PAPEN: He was a man who was always in Hitler's entourage.

SIR DAVID MAXWELL-FYFE: Now, the actual discussion took place between you and Hitler, with Von Schröder present. Is that not so?

VON PAPEN: No. Perhaps I might give the Court a short account of the conference as the Court desired.

SIR DAVID MAXWELL-FYFE: Well, I think it is easier to put the facts to you. I will take them quite shortly. I am in the hands of the Tribunal.

Do you say that Von Schröder was not present?

VON PAPEN: Schröder may have been present for parts of the conversation. I recall that in the main I talked to Hitler alone.

SIR DAVID MAXWELL-FYFE: The meeting started at about 11:30 in the morning, did it not? The meeting between you and Hitler?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And the first point that you raised was to explain to Hitler that although you had not been able to release the two Nazis who had been condemned for killing a Communist, that you had tried to get President Von Hindenburg to pardon them. Is that not right?

VON PAPEN: I recall that Hitler strongly reproached me because of the death sentence against these National Socialists.

SIR DAVID MAXWELL-FYFE: And the second point that you raised as an explanation to Hitler was that it was not through any intrigue or machinations of yours that President Von Hindenburg had refused to discuss with Hitler the question of Hitler's becoming Chancellor. Was that not the second point; it was not you who had caused Von Hindenburg to refuse the discussion?

VON PAPEN: Yes. I explained that my offer to him of 13 August 1932 had been meant absolutely honestly.

THE PRESIDENT: I do not think that was an answer to your question.

SIR DAVID MAXWELL-FYFE: Did you not explain to Hitler that it was not your fault that Von Hindenburg had refused to discuss the question of making Hitler Chancellor in August of 1932 . . .

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: . . . when Hitler had met Von Hindenburg?

VON PAPEN: No, that cannot be right, for according to the evidence of historical documents Hitler had a talk with Von Hindenburg on 13 August, and Hindenburg explained to him the reasons why he did not agree to Hitler's Chancellorship.

SIR DAVID MAXWELL-FYFE: What I am putting to you is that you told Hitler on 4 January, when you had that talk with Von Hindenburg: "I want you to understand it was not my fault that Von Hindenburg was not ready to discuss the question of your being Chancellor." Did you not tell him that, that it was not your fault, that you thought Von Hindenburg would have been ready?

VON PAPEN: No, Mr. Prosecutor, that is what Herr Von Schröder says; but that is not right.

SIR DAVID MAXWELL-FYFE: Well now, what do you say was said on the point of Von Hindenburg and Hitler? If you do not accept what I suggest to you, what do you say?

VON PAPEN: What Hindenburg told Hitler can be read in all the books; that is a well-known matter of history.

SIR DAVID MAXWELL-FYFE: No, no. What we want to know—if I may say so, with great respect to the Tribunal—is what you told Hitler on 4 January. What did you tell him, if you told him anything, about the position between President Von Hindenburg and himself?

VON PAPEN: If you had permitted me to make an explanation about the course of the conference, I would already have explained that.

In the course of this talk I did nothing but call Hitler's attention to the fact of how necessary it was to reach an agreement with Herr Von Schleicher, how necessary it was to enter his Government. In other words, I continued those efforts which I had made in 1932 to induce the Nazi Party to co-operate.

SIR DAVID MAXWELL-FYFE: Are you seriously telling the Tribunal that you told Hitler that he should go into a Schleicher Cabinet?

VON PAPEN: I told him he should enter a Schleicher Cabinet.

SIR DAVID MAXWELL-FYFE: That is what I put to you. I am suggesting that is entirely wrong. What you suggested to Hitler was that it would be a sound thing for the conservatives and nationalists, whose political views coincided with yours, to join with Hitler in forming a government, that you put to him what actually happened on 30 January, you suggested it to him at this meeting. Do you say that is untrue?

VON PAPEN: Not one word is true; that is absolutely false. As proof of this, I state the following:

Immediately after the conversation I wrote a letter to Schleicher, on 4 January, in the afternoon. He probably received this letter on the morning of the 5th. However, even before Herr Von Schleicher received this letter of mine on the actual substance of the talk, the morning papers of 5 January started a tremendous campaign against me, asserting that this talk with Schröder showed disloyalty to Schleicher. Returning to Berlin, I went to see Herr Von Schleicher immediately, and I explained to him what the substance of our talk had actually been. Herr Von Schleicher then published a communiqué on this subject. This communiqué . . .

SIR DAVID MAXWELL-FYFE: But he was not the only person, you know, that published a communiqué. You and Hitler published a communiqué.

I want you to remember, Defendant, I put to you that the suggestion from you was that you and Hitler would form a coalition with the conservative forces behind you, and the National Socialist forces behind Hitler. Now just look at the communiqué that you and Hitler issued.

Will you give the defendant Document Number D-637. My Lord, this is a new document, which will become GB-496.

Look at the foot of it, Defendant, the end of the document:

"Adolf Hitler and Herr Von Papen publish the following joint declaration:

"In answer to false deductions which have in many cases been circulated in the press regarding Adolf Hitler's meeting with

the former Reich Chancellor Von Papen, the undersigned declare that the conversation dealt exclusively with the question of the possibility of a great national political united front and that in particular the opinions of both parties on the present Reich Cabinet were not touched on at all in this general discussion."

Now, Defendant, when you have been reminded of what you published yourself, is it not correct what I have put to you, that you suggested to Hitler that you should form this coalition of conservatives and nationalists who agreed with you, and the Nazi Party under Hitler?

VON PAPEN: No, Mr. Prosecutor, this communiqué states two things: In the first place, I point out that we did not speak at all about overthrowing the Schleicher Cabinet or replacing it by another government, as the press generally assumed. Then I state that it is necessary to create "a great national, political united front." Herr Von Schleicher headed the same Cabinet that I had headed, with the same political forces. So if I called on Hitler to enter this Cabinet, then that is exactly the same political combination as if I had asked him to join my Cabinet.

SIR DAVID MAXWELL-FYFE: Defendant, I am not going to argue with you. If you say that that communiqué is your way of expressing that you had asked Hitler to take the Nazis into Von Schleicher's Government, and that you had not discussed forming the coalition, if you say that that is what that communiqué expresses, I have no further questions, and I will pass on to another point. I have made my suggestion, and I suggest the communiqué bears it out.

But now, let us come to the next action of yours. Do you deny that during January you were active in making contact with Hitler, and on Hitler's behalf with President Von Hindenburg, in order to bring Hitler into the Government? Or do you agree with that?

VON PAPEN: That is true, and I will say in what respect. I had two official talks with Hindenburg. On 9 January, when I returned to Berlin, I went from Reich Chancellor Von Schleicher to Reich President Von Hindenburg. Reich Chancellor Von Schleicher, being of the opinion that in the Schröder talk I had been disloyal to him, had asked Von Hindenburg not to receive me any more. I informed Von Hindenburg of the actual contents of the Schröder talk and, after I had reached an agreement with Von Schleicher, Hindenburg was also convinced that the whole thing had been a big misunderstanding.

Then, to the best of my memory, I did not talk officially to Herr Von Hindenburg about these governmental matters again until 22 January.

SIR DAVID MAXWELL-FYFE: Well now, just let us see what the Chief of the Presidential Chancellery says about it, and see whether he can reinforce your memory. Would you look at Herr Meissner's affidavit, at the second part of Paragraph 6?

[A document was handed to the defendant.]

My Lord, it is 11a, Page 45, about 7 lines from the foot of the page.

[Turning to the defendant.] You see, just after the first section of Paragraph 6, Defendant, the second part, it begins:

"Schleicher first made these suggestions to Hindenburg in the middle of January . . ."

Then the next sentence is:

"In the meantime Papen had returned to Berlin and, through arrangements with Hindenburg's son, had several talks with the President. When Schleicher renewed his demand for emergency powers, Hindenburg declared that he was unable to give him such blank authority and must reserve for himself decisions in every individual case. Schleicher, for his part, said that under these circumstances he was unable to stay in the Government and tendered his resignation on 28 January 1933."

Then, Paragraph 7:

"In the middle of January, when Schleicher first asked for exceptional powers, Hindenburg was not aware of the meetings between Papen and Hitler, particularly the meeting which had taken place in the house of the Cologne banker, Kurt von Schröder. In the second part of January Papen played an increasingly important role in the house of the Reich President, but in spite of Papen's persuasions Hindenburg was extremely hesitant, until the end of January, to appoint Hitler Chancellor. He wanted to have Papen as Chancellor once more. Papen finally won him to Hitler with the argument that the representatives of the other right-wing parties which would belong to the government would restrict Hitler's freedom of action. In addition Papen expressed his misgivings that, if the present opportunity were once again neglected, a revolt of the National Socialists and civil war would be likely."

Is that right?

VON PAPEN: No.

DR. KUBUSCHOK: May I make a comment on the use of the Meissner affidavit? The case is similar to but not quite the same as the Schröder case. The Meissner affidavit was not offered to the Court during the proceedings. But during the Prosecution's case it came to my knowledge that a Meissner affidavit was to be used.

I talked to the Prosecution and pointed out that I would not under any circumstances be satisfied with the submitting of the Meissner affidavit, but would insist on calling Meissner as a witness. The reason is the same. The personality of the witness Meissner, who was very involved in these affairs, makes extreme caution advisable. The Prosecution told me that they would not use the affidavit, and finally told me that they would not call Schröder as a witness. I had no reason to call the witness myself. Now I am in a position where the affidavit is being submitted in cross-examination, and I am unable to question or expose the suspect witness Meissner before the Court.

SIR DAVID MAXWELL-FYFE: My Lord, concerning the position with regard to this affidavit, Major Barrington tells me that he did not have it when he presented the individual case against Von Papen. I am using it now. If the Tribunal thinks there is sufficient divergence between what the witness accepts and the affidavit to justify it, I have not the slightest objection to Dr. Kubuschok's making application for Meissner to be cross-examined.

THE PRESIDENT: What do you say about the allegation of Dr. Kubuschok that the Prosecution says they were not going to use the affidavit?

SIR DAVID MAXWELL-FYFE: My Lord, I did not say that. Major Barrington, who was with me, had no recollection of my saying that at all. Major Barrington certainly never said that. It was never our intention, because it clearly was a most important document for us to use.

THE PRESIDENT: What is the date of it?

SIR DAVID MAXWELL-FYFE: The 28th of November. We gave a copy to Dr. Kubuschok.

DR. KUBUSCHOK: Yes.

Mr. President, may I explain? The British Prosecution did not make a binding statement that they would not submit the affidavit and not call the witness. I always said that if an affidavit were to be used, I would call the witness. I asked the Prosecution repeatedly, "Are you going to call the witness or not?" They said, "No." Then I said, "Then I am not interested in it. We will drop this whole subject, and I will not call the witness."

THE PRESIDENT: The affidavit seems to have been made a long time ago.

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: Actually, it was almost as soon as the Tribunal began. I think that perhaps you ought to use the facts and not use the affidavit.

SIR DAVID MAXWELL-FYFE: My Lord, I am perfectly prepared to do whatever the Tribunal wants. If there is any question, and Dr. Kubuschok wants Meissner for cross-examination, as far as I am concerned, he can have him. I mean, I am in a slightly different position from that with respect to Von Schröder. As far as fairness is concerned, I want Your Lordship to understand that certainly none of my staff thought for a moment that the Defense understood we were not going to use it, because we always intended to use it. We gave a copy of this affidavit to the Defense so that there would be ample notice of this affidavit.

DR. KUBUSCHOK: Yes, that was done, and I gratefully acknowledged it.

SIR DAVID MAXWELL-FYFE: My Lord, I am really anxious not to occupy too much of the Tribunal's time. I would rather go on and put the facts in and save any discussion about it.

THE PRESIDENT: Very well, do that.

SIR DAVID MAXWELL-FYFE: I think you said, Defendant—you put it that you had two meetings with President Von Hindenburg and then, I think, after 18 January you had meetings with Hitler, and after 22 January you had meetings with the Defendant Göring, as he said in his evidence, is that not so?

VON PAPEN: No, I did not meet with Hitler from 4 January until 22 January.

SIR DAVID MAXWELL-FYFE: We will call it about 4 days, the dates of the Nazi Party say that you began negotiations on the 18th, but we will not quarrel about a day or two. The crucial meeting was the meeting which was arranged with Oskar von Hindenburg at the Defendant Von Ribbentrop's house, was it not?

VON PAPEN: It was a preliminary talk; it was at any rate the first contact with the National Socialists, with Hitler, and with Göring.

SIR DAVID MAXWELL-FYFE: And Oskar von Hindenburg had private conversations with Hitler which lasted for about an hour, at that meeting at Von Ribbentrop's house; is that not so?

VON PAPEN: That is possible. I do not recall it any more.

SIR DAVID MAXWELL-FYFE: And thereafter, the decision was come to that Hitler would become Chancellor in the new Government and that he would bring into the Government the Defendant Frick as Minister of the Interior, and the Defendant Göring as Minister without Portfolio, and he himself would head the Government as Chancellor?

VON PAPEN: No; on the 22d, we did not reach any agreement as to this; rather we limited ourselves to . . .

SIR DAVID MAXWELL-FYFE: I said only within a few days that had been agreed between you, had it not?

VON PAPEN: Yes, but it is very important to establish—forgive me if I add this—that we did not begin these talks until after it was certain that Herr Von Schleicher could not form a government, after the attempt to split the Nazi Party had failed. That is very important.

SIR DAVID MAXWELL-FYFE: Now, are you telling the Tribunal that at this time you did what you have agreed you have done to bring Hitler into power, simply because he was head of the biggest party in the Reichstag, or because you thought he was the most suitable man to be Chancellor of Germany at that date; which was your motive?

VON PAPEN: My motive, Mr. Prosecutor, was very simple. In the situation existing after 23 January, there were only two possibilities, either to violate the Constitution, which would result in civil war, or to form a government headed by Hitler. I believe I explained that in great detail to the Court.

SIR DAVID MAXWELL-FYFE: What I really want to know, Defendant, is that at this time you had had these contacts with Hitler. You have been Chancellor of Germany yourself. At this time did you think that Hitler personally, and Hitler's aims and intentions and personality, were a good thing for Germany to have as Chancellor? It is a perfectly simple question. I want a straight answer. Did you think it was a good thing to have Hitler, as you knew him then, as Chancellor of Germany?

VON PAPEN: To that I can say only that the coalition which I formed on behalf of the Reich President was a forced solution. There was no question of whether it was better or worse. We had to accept it.

SIR DAVID MAXWELL-FYFE: Well, now, just let us see. I think you said that you were not certain that Hitler would eliminate opposition before he came into power. How long did it take you, after Hitler became Chancellor, to find out that his desire was to eliminate all opposition?

VON PAPEN: I realized that finally when I made the last attempt in my Marburg speech to hold him to the joint program, and when this attempt failed . . .

SIR DAVID MAXWELL-FYFE: That was 18 months later, on 17 June 1934. Are you telling the Tribunal that it took you 17 months to realize that Hitler wanted to break down the opposition?

VON PAPEN: No, I told the Court . . .

SIR DAVID MAXWELL-FYFE: Just let me remind you of one or two things. Do you remember Herr Ernst Heilmann, who had been the leader of the Social Democrats in the Prussian Diet?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: He was, I think, for 10 years a member of the Prussian Diet with you. He went into a concentration camp at once and was treated with the most terrible cruelty, was he not?

VON PAPEN: I learned of that later, here, for the first time. I did not know it at that time.

SIR DAVID MAXWELL-FYFE: Are you telling the Tribunal that you did not know in 1933 that Ernst Heilmann went into a concentration camp?

VON PAPEN: I knew only that a number of political opponents, Communists and Socialists, had been sent to concentration camps by the Gestapo. That I knew.

SIR DAVID MAXWELL-FYFE: Now, answer my question. Here was the leader of the Social Democrats in the Prussian Diet, a man who sat in Parliament with you for 10 years. Do you say that you did not know that he had gone to a concentration camp?

VON PAPEN: I do not recall, no. I believe I learned of it only here.

SIR DAVID MAXWELL-FYFE: Well, now, let me give you a famous name, Karl von Ossietzki, the winner of the Nobel Peace Prize, the author and journalist. Did you not know that he had gone into a concentration camp?

VON PAPEN: I remember Herr Ossietzki only as the publisher of a periodical; otherwise I know nothing about him.

SIR DAVID MAXWELL-FYFE: You did not know that he was the 1936 winner of the Nobel Peace Prize, did you?

VON PAPEN: I could not possibly have known that in 1933.

SIR DAVID MAXWELL-FYFE: No, but you did not know he won it later on? Did you not know that he was put in prison?

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: I thought I might have connected his name with you. Let me take somebody else. Take Dr. Ernst Eckstein, who had been a Reichstag Deputy, who was a well-known lawyer from Breslau. Did you not know that he was put in a concentration camp?

VON PAPEN: No, I did not know Dr. Eckstein, unfortunately

SIR DAVID MAXWELL-FYFE: Or Dr. Joachim, the Social Democrat lawyer from Berlin. Did you know he was put in a concentration camp?

VON PAPEN: No, I did not know him and I did not know this either.

SIR DAVID MAXWELL-FYFE: Well, now, apart from individuals, did you not know that within a few months of Hitler's becoming Chancellor, hundreds, if not thousands, of Social Democrats and Communists went into a concentration camp?

VON PAPEN: Thousands?

SIR DAVID MAXWELL-FYFE: Well, let us say hundreds, if you like. That is the figure Defendant Göring agreed to, so let us take, as the inside figure, hundreds of Social Democrats and Communists. Minister Severing put it at 1,500 of each; did you not know that?

VON PAPEN: I recall very exactly that the Defendant Göring came to the Cabinet one day after he had had the headquarters of the Communist Party, the Liebknecht Haus, taken over by the Police. He told the Cabinet that he had found a great number of documents which showed to what extent the Communists and other elements were trying to disturb public order and overthrow the new Government.

SIR DAVID MAXWELL-FYFE: Now will you answer my questions. Did you not know that hundreds of Social Democrats and Communists had been put in concentration camps?

VON PAPEN: No, I did not know there were hundreds. I knew that individual leaders had been thrown into concentration camps.

SIR DAVID MAXWELL-FYFE: Now, you mentioned, in giving your evidence to the Court, that the Amnesty Decree of 21 March was only the sort of thing that had happened before; that was a concretely one-sided amnesty, was it not? It was an amnesty to those who had fought in the national revolution, that is, an amnesty for Nazis. It was not an amnesty for Communists or Social Democrats or anyone who had been on the other side, was it?

VON PAPEN: Quite true, yes. It was an amnesty for the people who had worked against the formation of the Government.

SIR DAVID MAXWELL-FYFE: Now, you knew these things. Well, in your speech at Essen, let us just look at it again; your own account of what you have done. It is Page 54 of Document Book 11. You just told me that it was true what you said in that speech—this was in November—that you had tried to support with all your strength the work of the National Socialist movement and its leader and, if you will notice, you say later on that you were "selected

by a gracious fate to put the hand of our Chancellor and Führer into the hand of our beloved Field Marshal." By November 1933 you must have had a very good idea about the way that Hitler, your Chancellor and Führer, was dealing with those who were politically opposed to him. Why were you—you told us your point of view—why were you saying how proud you were to have supported with all your strength the work of the National Socialist Party unless you agreed with it?

VON PAPEN: Hitler's and the Party's acts in violation of the coalition policy we opposed to the best of our power within the Cabinet. Certainly, we knew of these violations. I, personally, in many speeches which have not been submitted to the Court, referred to these violations, but as long as this coalition pact was in existence I had to hope that we would put our views through, and only for this reason did I therefore assure Hitler of my loyalty so that he, on his part, would be loyal to the others of us.

SIR DAVID MAXWELL-FYFE: I just give you the last words. Here you are appealing in a careful and special appeal to your Catholic fellow citizens, and you say:

"Let us in this hour say to the Führer and the new Germany that we believe in him and his work."

Why did you talk like that when you must have known, in November 1933, that his program was to smash opposition, smash his political opponents, smash the trade unions and put himself in complete control of Germany? Why were you making speeches like that unless you believed and agreed with everything Hitler wanted to do?

VON PAPEN: I will tell you that very precisely. You know that in July of that year I concluded the Concordat, and that I received Hitler's assurance that he would make religious peace the basis of his policy. The more conservative elements could be brought to back the Government, so much the better it would be for the fulfillment of my program.

SIR DAVID MAXWELL-FYFE: If that is your answer, we will pass to another point. I think you said today, or you said a few moments ago, that you began to realize what sort of team you were running with when you made the Marburg speech on 17 June. Now, please do not think I am being offensive . . .

THE PRESIDENT: We will adjourn now.

[A recess was taken.]

DR. VON LÜDINGHAUSEN: Mr. President, may I request of the Tribunal that tomorrow and the day after tomorrow my client,

Herr Von Neurath, be absent from the session so that he may prepare and complete his own defense?

THE PRESIDENT: Certainly.

SIR DAVID MAXWELL-FYFE: Defendant, you have told the Tribunal a considerable amount about your Marburg speech. Was one of your associates a gentleman called Jung?

VON PAPEN: Yes, that is quite correct.

SIR DAVID MAXWELL-FYFE: And—believe me I do not mean it in any offensive way—Herr Jung had helped you considerably with the composition of the Marburg speech, had he not?

VON PAPEN: Herr Jung quite frequently drafted outlines for speeches of mine, and the same applies to the Marburg speech.

SIR DAVID MAXWELL-FYFE: Yes. He was shot after the 30th of June, was he not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: He was a man for whom you had not only great affection, but for whose political views—I think you would call him a progressive conservative—you had great respect and agreement, is that not so?

VON PAPEN: Perfectly right, yes.

SIR DAVID MAXWELL-FYFE: You have told us about Herr Von Bose. He was shot. Herr Von Tschirschsky was arrested by two different lots of people, was he not, after this occasion?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Was Herr Von Savigny arrested?

VON PAPEN: I cannot remember. I do not think so.

SIR DAVID MAXWELL-FYFE: Well, in all—it does not matter about the names—there were two members of your staff who were shot, and three were arrested, were they not?

VON PAPEN: One member of my staff was shot, and two were arrested. Herr Jung was not a member of my staff.

SIR DAVID MAXWELL-FYFE: Herr Jung was not a member of your staff, but he was a close associate of yours. Now . . .

VON PAPEN: He was an associate who, as I said, quite often assisted me, when I was very busy, by drafting outlines for speeches, and with whom I exchanged conservative ideas.

SIR DAVID MAXWELL-FYFE: And, of course, it is common knowledge that General Von Schleicher and his wife were also shot, and—I think my recollection is right—that General Von Bredow was shot too, was he not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And you were placed under arrest, as you have told us, for 3 days, and I think your files were taken, were they not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Did this performance shake your faith in the regime?

VON PAPEN: My faith in what? I beg your pardon.

SIR DAVID MAXWELL-FYFE: Did this performance shake your faith in the regime and in Hitler?

VON PAPEN: Quite. I explained to the Tribunal yesterday that by this action the Pact of 30 January had been broken.

SIR DAVID MAXWELL-FYFE: And you offered your resignation on 2 July, I think.

VON PAPEN: No, I offered it even earlier.

SIR DAVID MAXWELL-FYFE: You had already offered it on 18 or 19 June, and you reaffirmed your offer on 2 July.

VON PAPEN: Quite right.

SIR DAVID MAXWELL-FYFE: Quite right; my mistake. Now, do you tell the Tribunal that you reaffirmed your offer of resignation because you had lost your faith in the regime, or because of the insult to your own pride, because of your being arrested and having your files taken and your secretaries shot?

VON PAPEN: I offered my resignation, first, because of the unbearable affront to my own person and my staff and, secondly, because by this action the Pact of 30 January had been broken by Hitler and because any political co-operation with him in domestic matters had become impossible for me.

SIR DAVID MAXWELL-FYFE: I see. Well, just look at Document Number D-714, will you. My Lord, this will be GB-497.

This is a letter from you to Hitler written on 4 July, and you say:

> "Yesterday at 10 in the morning I had the honor of informing you orally of my attitude towards the events of the last days, after my term in police custody had been suspended on 2 July at 9 o'clock in the evening. At this time I pointed out to you that I could not possibly take my seat in the Cabinet until my honor and that of my officials has been restored.
>
> "On 30 June five of my co-workers were arrested; one of them was shot. My files have been confiscated, my office

sealed, and my private secretary also arrested. This is still the position at the moment.

"A procedure of this kind against the second highest official of the State could be justified only if he and his officials were guilty of complicity in the plot against Führer and nation.

"It is in the interest not only of protecting my personal honor but even more so of protecting the authority and decency of the State that either the guilt in this case be proved at once or honor restored."

Then you say:

"The events have become known abroad, in part in distorted form . . ."

And that for that reason not a single hour should be lost. You appeal to his soldierly sense of honor, and you ask that the case should be put in the hands of the Prosecutor General, or a communiqué published stating:

". . . that the investigations had established no evidence of any complicity in the plot, in order that my honor and that of my officials thus be restored.

"If you do not wish to undertake these steps, my remaining in the Cabinet any longer would be an impossibility."

Now look at the rest of the letter.

"I had placed my office at your disposal, Chancellor, as early as 18 and 19 June. I can ask for my dismissal with a much lighter heart today since the work jointly commenced by us on 30 January 1933 now appears to have been made secure against further revolts. At the same time I request to be relieved of my position as Commissioner for the Saar.

"I assume that you will make your decision regarding the restoration of my honor, for which I am asking you, within the next few hours.

"I remain loyally devoted to you and to your work for our Germany."

Was it true that it lightened your heart that the work of Hitler now appeared to be secured against further revolts?

VON PAPEN: I did not understand the question.

SIR DAVID MAXWELL-FYFE: Is it true what you say there, that it lightened your heart that the work of Hitler now appeared to be secured against further revolt?

VON PAPEN: Yes, I was under the impression that there had been a revolution which he had suppressed. This letter was written one day after I was released from custody, and I had the feeling there had been a revolution and now it was settled.

SIR DAVID MAXWELL-FYFE: Did you know that General Von Schleicher and his wife had been killed?

VON PAPEN: I do not think I knew that at this moment.

SIR DAVID MAXWELL-FYFE: You just knew that Herr Von Bose had been shot?

VON PAPEN: Yes, that is mentioned in the letter.

SIR DAVID MAXWELL-FYFE: And you knew there was not the slightest reason on earth for General Von Schleicher, Jung, and Bose being shot, did you not?

VON PAPEN: No, I did not know the reason. As far as I remember . . .

SIR DAVID MAXWELL-FYFE: No, you knew that there was no reason, did you not?

VON PAPEN: No, to my question regarding the reason Hitler replied that Herr Von Bose had been involved in a matter of giving information to the foreign press.

SIR DAVID MAXWELL-FYFE: I see. So that we may take it that you were speaking with your head and your heart, and with complete confidence and sincerity when you said: "I remain loyally devoted to you and to your work for our Germany," on 4 July 1934, is that right?

VON PAPEN: Yes, because I had to hope that his further work would not lead to any disadvantages for Germany, even though he might separate himself from me as far as matters of domestic policy were concerned.

SIR DAVID MAXWELL-FYFE: You need not go on with the letters. You may take it that I shall deal with them in time, so do not read the others in advance.

As a result of that, you saw Hitler on that day, did you not?

Would you mind just answering my questions. I assure you I will take you through these letters.

You saw Hitler on that day?

VON PAPEN: I saw him earlier.

SIR DAVID MAXWELL-FYFE: But you also saw him after.

VON PAPEN: I saw him the day before. In the letter it says . . .

SIR DAVID MAXWELL-FYFE: Yes, but you saw him after this letter, and did you not agree with Hitler to remain Vice Chancellor until September, and that you would then take employment under the Foreign Office?

VON PAPEN: I do not believe so, no.

SIR DAVID MAXWELL-FYFE: Well, if you do not believe that, look at the next letter which is D-715, which becomes Exhibit GB-498.

This is a letter of 10 July, and it begins:

"Our agreement of 4 July"—that is the date of the last letter—"to the effect that I am to retain my position as Vice Chancellor until September and then be employed in the Foreign Service was based between us on the following condition: The immediate and complete restoration of my authority and honor, which will enable me to remain in the service of the Reich, in whatever capacity."

Now, do you tell the Tribunal that on 10 July you did not know that General Von Schleicher and his wife had been killed and General Von Bredow had been killed and that Jung as well as Bose had been murdered? You say you did not know on 10 July?

VON PAPEN: I am not denying by any means that I knew that, but as I have already told the Tribunal I demanded that an investigation regarding all these matters be conducted so that we might know the precise reasons for them.

It was stated to the public that Schleicher was shot in self-defense, so that all these matters at the time were not at all clear.

SIR DAVID MAXWELL-FYFE: But it is correct, of course, as you write here, that you had agreed with Hitler to carry on as Vice Chancellor until September and then to be employed in the Foreign Service on this condition, is that right?

VON PAPEN: No, that is not correct, for I have already explained . . .

SIR DAVID MAXWELL-FYFE: It is your letter, Defendant, it is your own letter.

VON PAPEN: Yes, but this letter was written because Hitler had promised me a clarification, an investigation which would enable me, after my honor had been restored and all these crimes cleared up, to remain in the service of the Reich. But that was never done.

SIR DAVID MAXWELL-FYFE: Von Bose and Jung had been working with you in close co-operation and if anyone knew whether they were innocent men or not it was you. Why did you, with that knowledge, agree with Hitler to carry on as Vice Chancellor and then to enter the Foreign Service?

VON PAPEN: I have stated that I had resigned. The sentence dealing with my possibly remaining in office is only a supposition.

De facto I had resigned and *de facto* I did not exercise any governmental activity from 4 July on.

SIR DAVID MAXWELL-FYFE: Just look at the next words in this letter:

"To this end I submitted to you on 5 July my proposal for a statement to be issued officially, explaining why the arrest of a number of officials of my staff had taken place and how Von Bose had lost his life, and averring the nonparticipation of all the members of my staff in the SA revolt. This statement requested by me was approved and published by you only in part, inasmuch as the release and innocence of Herr Von Tschirschsky, Herr Von Savigny, and of my private secretary, Stotzingen, were announced."

You had put before Hitler your own version and asked him to pass it and he would not pass it. He would not clear the people who were working closely with you and yet you had agreed with him. You had agreed with him to continue as Vice Chancellor and to go into the Foreign Service.

You see what I am putting to you? I am putting to you quite clearly that all you cared about was your own personal position, your dignity being restored. You were prepared to serve these murderers so long as your own dignity was put right.

VON PAPEN: Mr. Prosecutor, I cannot give better proof for my intentions to separate myself from the regime than lies in the fact of my actual resignation. If everything had been clarified, if the fact that my employees and officials had been innocent when they were arrested and murdered had been made clear, then perhaps it might have been possible for me to remain in the service of the Reich, but not as Vice Chancellor, from which position I had resigned. But you can see from this letter that Hitler made no attempt to give such a declaration.

SIR DAVID MAXWELL-FYFE: And as a result of his making no such attempts you wrote an even more fulsome statement of your admiration for his actions. Look at Document Number D-716, which will become Exhibit GB-499.

"Most honored Reich Chancellor:

"I reflected a long time on our conversation of yesterday, and the statements made to me, in particular what you told me about your intentions regarding your Reichstag speech, have occupied me constantly in view of the enormous importance of the speech and its special effect on Germany's position in the sphere of foreign politics as well. I therefore feel impelled, in fact I feel it my duty, to let you know my opinion, as I have frequently done on previous occasions.

"You explained to me yesterday that you intend publicly to accept responsibility for everything that happened in

connection with the crushing of the SA revolt. Allow me to tell you how manly and humanly great I consider this intention. The crushing of the revolt and your courageous and firm personal intervention have met with nothing but recognition throughout the entire world.

"What are, however, at the moment a burden on Germany are solely those events that took place outside the bounds of your own initiative and without any immediate connection with the revolt, such as the examples you yourself gave me. This has been given expression particularly in the British and American press."

Then, leaving out three paragraphs, you say:

"Allow me to assure you once again that my person or my position, except for the restoration of my personal honor, do not matter at all and are at issue only insofar as the events in the Vice Chancellery on 30 June are being regarded by the public as the consequence of a breach between you and me."

Then, after some more of the same you finish up:

"With unchanged admiration and loyalty . . ."

Did it not come to this, Defendant, that so long as you could get your dignity cleared it did not matter whether your collaborators were shot or the Government of which you had been a member had adopted murder as an instrument of policy? These things did not matter to you so long as you kept your own dignity and the chance of a future job in the Foreign Service.

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: Well, why did you write stuff like that to the head of a gang of murderers who had murdered your collaborators? Why did you write to him:

"The crushing of the revolt, your courageous and firm personal intervention have met with nothing but recognition throughout the entire world."

Why did you write it?

VON PAPEN: Because at that time it was my opinion that there actually had been a revolution and that Hitler had crushed it. That on the other hand numerous people had been murdered, members of my own office staff, that was something about which Hitler was to ascertain the truth.

When he told me that he himself would assume responsibility, I considered this an excellent act on his part, though not, as it was actually done afterwards by Hitler, when he stated to the Reichstag that these events were proper. I understood it to mean

that if he himself assumed responsibility for these events he would clarify them to the world and not state to the world in a law without any investigation that they were proper.

SIR DAVID MAXWELL-FYFE: Would you tell the Tribunal that on 12 July you thought there was any doubt or any possibility that your friend Jung could be guilty of treason against the Reich or of a plot against Hitler? Did you believe that for an instant?

VON PAPEN: Herr Hitler explained to me at that time that the shooting of Bose was first of all only a . . .

SIR DAVID MAXWELL-FYFE: No, I asked first of all about yourself. I asked, did you believe for a moment that Jung had been guilty of treason against the Reich or of a plot against Hitler?

VON PAPEN: No, certainly not.

SIR DAVID MAXWELL-FYFE: Well now, you knew very well that Hitler was worried from the point of view of foreign opinion as to publicity being given to the effect of a break between you and him, did you not?

You knew that the support, after the blood purge, of an ex-Chancellor of the German Reich and, as you have told us, a Catholic of old family with great position amongst the German population—the support of someone of that kind would be of great value to him after this blood purge, which had caused foreign opinion to be very disturbed, did you not? You knew that?

VON PAPEN: No, it seems clear from this letter that I constantly asked Herr Hitler to ascertain why and for what reasons action had been taken in this manner against my associates and me. He was to explain this to the world.

SIR DAVID MAXWELL-FYFE: Herr Von Papen, if you, as an ex-Chancellor of the Reich and, as you said yourself, one of the leading Catholic laymen of Germany, an ex-officer of the Imperial Army, had said at that time "I am not going to be associated with murder, cold-blooded murder as an instrument of policy," you might at some risk to yourself have brought down the whole of this rotten regime, might you not?

VON PAPEN: That is possible, but had I said it publicly, then quite probably I would have disappeared somewhere just as my associates did. And, apart from that, the world knew from my resignation that I did not identify myself with this affair.

SIR DAVID MAXWELL-FYFE: Just let us see what you were writing. If you look at Document Number D-717, which will become Exhibit GB-500, that emphasizes the importance that Hitler was attaching to your adherence. If you will look at the second paragraph—I will read it, it is quite short. You say:

"I hope you have received my letter of yesterday and that you received it in the spirit in which it was intended.

"Today I ask you, for personal reasons, to excuse me from participating in the session of the Reichstag. Yesterday you were, indeed, of the opinion that my staying away might create the impression that there was disagreement between us. But this impression can surely not arise if in your statements you refer to the case of the Vice Chancellery in the way in which you promised me you would.

"During all these days I have behaved with the greatest possible reserve towards the outside world and have shown myself as little as possible, and you will surely understand my not wanting to appear in public again until every shadow has been removed from me.

"I have also asked the Party Chairman to excuse my absence."

Who is the Party Chairman? Is that the Chairman of the Nazi Party?

VON PAPEN: No, I believe the Chairman of the Party was Dr. Frick.

SIR DAVID MAXWELL-FYFE: It was the Government Party, was it?

VON PAPEN: Yes. The letter shows that I requested Hitler to give an account of the actions undertaken against me and my associates before the Reichstag.

SIR DAVID MAXWELL-FYFE: You wanted a statement saying that you had never swerved from your loyalty towards him; that is what you wanted, was it not?

VON PAPEN: No, I wanted . . .

SIR DAVID MAXWELL-FYFE: Well, if you disagree with that, look at Document Number D-718, which will become Exhibit GB-501, and see what you say the next day:

"Most honored Chancellor:

"After you have given the nation and the world last night your great account of the internal developments which led up to 30 June, I feel the need to shake your hand, as I did on 30 January 1933, and to thank you for all you have given anew to the German nation by crushing the intended second revolution and by announcing irrevocable and statesmanlike principles.

"Painful, tragic circumstances have prevented me for the first time since 30 January from appearing at your side. You yourself excused me and showed understanding for the fact that a Vice Chancellor cannot take his seat on the

ministerial bench as long as he finds himself subjected to special treatment. (My confiscated files have still not been returned to me, in spite of Göring's and your own orders.)

"Your statements clearly show to history that any suspicion of a connection between my person and these treasonable practices was an intentional defamation and calumniation. I thank you for stating this."

Then, after saying that people are still believing it, in the penultimate paragraph you say:

"I should, therefore, be grateful if you could soon find the occasion to point out positively that up to today"—that was 14 July—"I have loyally stood by and fought for you, your leadership, and your work for Germany."

Now, Defendant, do you deny what I put to you a moment ago, that all you wanted was your loyalty to the regime to be made clear to the world? It was not worrying you at all that Von Schleicher and his wife, and Von Bose, and Jung, and all these other people had been murdered by the Government of the Reich; otherwise, why did you write a letter like that?

VON PAPEN: I wrote this letter, as the letter itself shows, because I was still being accused of having agreed to the attempts on the lives of Goebbels and Göring and of various other conspiracies. That is the reason why it was important to me to have Chancellor Hitler state that I was not involved in any conspiracies against him in connection with the various actions of this revolt. Of course, first of all I dealt in this letter with my position and the position of my associates. The restoration of General Von Schleicher's honor was the task of the Army, and not my task.

SIR DAVID MAXWELL-FYFE: Yes, I will come to that when we deal with the Army, but at the moment, you see, what I am putting to you is this: That even after you knew that your own friends had been murdered, to say nothing of your old colleagues, your own friends had been murdered, you again and again protest your loyalty and the fact that you had always worked and cooperated with Hitler in all his work. Was that honest? Is what is contained in these letters honest, or do you say they were just lies in order to protect yourself?

VON PAPEN: No, I wrote that because, in fact, the entire action against me, Himmler's attempt to murder me, the fact that I was arrested, were all based on the supposition that I had participated in a conspiracy against Hitler's Government. It had therefore to be clarified that as long as I was a member of this Government, I had acted toward it with absolute loyalty. That is the reason why I was asking for this clarification.

SIR DAVID MAXWELL-FYFE: Do you remember your learned counsel, on your instructions, putting an interrogatory to Baron von Lersner? It is Number 2(a) on Page 212 of Defense Document Book 3, Question 2(a):

"Did the Defendant Von Papen continue to hope to change Hitler's policy to his own way of thinking by impregnating it with conservative ideas, until the murders taking place on 30 June 1934 and Hitler's justification of them had convinced him that his efforts and his hope had been in vain?"

And Baron von Lersner, not unnaturally, answers "yes" to that question.

Does that correctly express your point of view "... until the murders taking place on 30 June 1934 and Hitler's approval of them had convinced him ..."—that is you—"that your efforts and your hopes had been in vain"? Do you agree with that? It is an interrogatory put by your own learned counsel.

VON PAPEN: Yes, I agree with that.

SIR DAVID MAXWELL-FYFE: If that is your view, why did you write these letters expressing this fulsome admiration of Hitler?

VON PAPEN: What I wished to express in the interrogatory, or rather what I wanted Herr Von Lersner to be asked was the following: Is it correct ...

SIR DAVID MAXWELL-FYFE: The answers the witness expects are in his question. It is one of the best examples of a leading question I have ever seen. You say that your interrogatory expresses your view, do you not?

VON PAPEN: I might say that if I were of this opinion that with the 30th of June it became apparent that further co-operation with Hitler was no longer possible and that, therefore, the coalition program which had been agreed upon between us had collapsed ...

SIR DAVID MAXWELL-FYFE: You say again that you have an unchanged loyalty and admiration and that you have co-operated?

"I remain loyally devoted to you for your work, for our Germany."

If your view is put in that interrogatory, that the foundations of your faith had been shaken, why do you write that you remain loyally devoted to Hitler's work for Germany?

VON PAPEN: I have already told you and the Tribunal that I hoped that, in spite of the collapse of the domestic situation, Hitler would at least in the field of foreign policy pursue a reasonable course. He was there; we could not remove him. We had to

reckon with Hitler and his Government. All the gentlemen continued to co-operate; I was the only one who stepped out. All these letters with which you are trying to prove I am insincere or that I am not truthful, or, as you call it, that I am a liar or a deceiver, cannot deny to the world the fact that I resigned at that time.

SIR DAVID MAXWELL-FYFE: And you took another job within 11 days. Eleven days after the last letter you had taken the job of representing this—well, I will not say a gang of murderers—this Government which had adopted murder as an instrument of policy, as Plenipotentiary to Austria, within 11 days of your last letter.

Let us just see whether the murder motif did not come into that. Did you think that Hitler had been behind the July Putsch in Austria, which had resulted in the murder of Chancellor Dollfuss?

VON PAPEN: I know that Herr Habicht, who had been appointed by him to lead the Austrian Party, at any rate had some connection with this affair. That Herr Hitler himself had approved this act, that was not known to me.

SIR DAVID MAXWELL-FYFE: Well, did you think that the German Foreign Office had been behind the July Putsch?

VON PAPEN: The German Foreign Office, in my opinion, had nothing at all to do with the July Putsch.

SIR DAVID MAXWELL-FYFE: Did you think that Dr. Rieth—if I have his name, yes, Rieth, the German Minister in Vienna—did you think that he had been behind the Putsch?

VON PAPEN: No. I knew only that Dr. Rieth had negotiated with the Austrian Government.

SIR DAVID MAXWELL-FYFE: You did not know that Hitler had been behind it. You deny that the German Foreign Office had been behind it. You did not know that Dr. Rieth had been behind it. Just look at Page 96 of Document Book 11a. It is Pages 79 and 80 of the German book.

This is a report, your report a year later. I am taking it slightly out of time because of this sentence where you recapitulate the facts, and if you will look at paragraph—I think it is the last paragraph on Page 79 in the German text.

My Lord, it is the second last paragraph on Page 96 in the Document Book 11a.

"The hope that the personal conversation between the Führer and Reich Chancellor and the head of the Italian State at

Stresa would lead to a settlement of German-Italian differences has been changed into the exact opposite by the threatening attitude taken up by Mussolini because of the assassination of his friend Dollfuss, and by the partial mobilization of Italian corps on the Brenner. It became apparent that the attempt to 're-establish normal and friendly relations' by sending me to Vienna was not immediately possible after what had just happened. Mistrust of the forcible methods of the Austrian NSDAP"—now look at the next words—"influenced, as became more and more apparent from the trials which were held, by leading Reich-German persons, was too strong. The impression caused by the terrorist methods and the death of the Federal Chancellor was too lasting in the widest circles."

Now, Defendant, tell the Tribunal who the leading German personalities were to whom you were referring as supporting the Putsch in July 1934 and the murder of Dollfuss? Who were they?

VON PAPEN: By no means the former German Minister to Vienna, Herr Rieth, but only Herr Habicht and the persons subordinate to him who at the time were running the Austrian Nazi policy at Hitler's order.

But I might point out that it says in this sentence that mistrust of the methods of force employed by the Austrian Nazis had become more and more apparent from the trials held, and that is something which we discovered a year later and not at the time when I was given the task.

SIR DAVID MAXWELL-FYFE: What I want to know is this. My question was: Who were the leading German personalities? You are not going to tell the Tribunal that Habicht, who was a liaison man with the NSDAP in Austria, was a leading Reich-German personality. Who were they? You are not going to say that Austrian Nazis were leading Reich-German personalities. Who were they? Who were the leading Reich-German personalities that you were talking about?

VON PAPEN: The leading personality was, no doubt, Herr Habicht. But this letter was written to tell Hitler: "Here, look what you have done."

SIR DAVID MAXWELL-FYFE: Do you seriously want the Tribunal to understand this as a statement on which they will judge your veracity, that by a leading Reich-German personality you mean Herr Habicht, and you have no one else in mind although you use the plural? Is that what you want the Tribunal to understand? I do not know if you remember, Defendant—just think of it

before you answer—but General Glaise-Horstenau could not even remember Habicht's name when he was giving his evidence.

You cannot seriously mean that you meant a liaison agent with the Austrian NSDAP when you referred to prominent Reich-German personalities. Surely you can do better than that.

Think again and tell the Tribunal whom you had in mind.

VON PAPEN: Mr. Prosecutor, Herr Habicht was not an agent. Herr Habicht had been appointed by Hitler as the leader of the Party in Austria, so I am surely justified in calling him a leading personality. If Herr Hitler himself had knowledge of these matters at that time, then when reading my letter he would know what I was hinting at.

SIR DAVID MAXWELL-FYFE: Even if I were to allow you Herr Habicht, which I certainly never would, he is only one man. Who were the others? You referred to Reich-German personalities. Who were the other people who had been behind this Putsch and this murder?

VON PAPEN: Quite candidly I must tell you that after the 12 or 15 years which have passed since then I can no longer remember which people I might have had in mind when I wrote that. At any rate, the purpose of the letter was—and you will appreciate this—to tell Hitler that the methods which had been employed were doing more damage and were much more incredible than we had known at the time.

SIR DAVID MAXWELL-FYFE: Well, I will accept it. We will go on from the point that you knew there were some unspecified prominent Reich-German personalities who had been behind the murder of Dollfuss.

Now, let us just, advancing from that, let us consider what you say with regard to Mr. Messersmith. As I understand it, you deny—if I may say so, with some vigor—what Mr. Messersmith says regarding you. Therefore, let us just look at what he says and see how much of it you can seriously suggest is not true.

I think I gave Your Lordship the references yesterday. The reference to the affidavit 1760-PS is Document Book 11, and Page 22 is the relevant part; and the other affidavit, Document 2385-PS, is 11a, Page 24. This is rather shorter.

I think the one that I would like you to look at, Defendant, is 1760-PS, and I think it begins on Page 3. I want you to come to the bit in the affidavit—and I am afraid I cannot give you the exact German place—where he deals with yourself.

It is Page 22, My Lord.

The paragraph begins:

"That the policy of Anschluss remained wholly unchanged was confirmed to me by Franz Von Papen when he arrived in Vienna as German Minister."

Have you got the passage, Defendant?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Now, if you look down a few lines in Mr. Messersmith's statement, he says:

"When I did call on Von Papen in the German Legation he greeted me with: 'Now you are in my Legation and I can control the conversation.' In the baldest and most cynical manner he then proceeded to tell me that all of southwestern Europe, to the borders of Turkey, was Germany's natural hinterland, and that he had been charged with the mission of facilitating German economic and political control over all this region for Germany. He blandly and directly said that getting control of Austria was to be the first step. He definitely stated that he was in Austria to undermine and weaken the Austrian Government, and from Vienna to work towards the weakening of the governments in the other states to the south and southeast. He said that he intended to use his reputation as a good Catholic to gain influence with certain Austrians, such as Cardinal Innitzer, toward that end. He said that he was telling me this because the German Government was bound on this objective of getting this control of southwestern Europe and there was nothing which could stop it, and that our own policy and that of France and England was not realistic."

Then Mr. Messersmith says that he told you that he was shocked, and that you merely smiled and said that, of course, this conversation was between you and Mr. Messersmith, and you would not talk so clearly to other people. Then he says:

"I have gone into this detail with regard to this conversation as it is characteristic of the absolute frankness and directness with which high Nazi officials spoke of their objectives."

Now, you have told the Tribunal that you said nothing like that to Mr. Messersmith. Apart from whether you said it to Mr. Messersmith or not, do you deny that these were your aims and intentions?

VON PAPEN: Yes; I absolutely deny that my purposes and aims were those which Mr. Messersmith is describing in his affidavit here. I told the Court yesterday . . .

SIR DAVID MAXWELL-FYFE: Now I just want to take these quickly. Would you just refer back to the document you were looking at a short time ago, which is Document 2248-PS?

That is Page 96, My Lord. It starts there, in 11a, and I want to pass on to Page 97. That is Page 81 of the German book.

Now, Defendant, this was your view in 1935, if you will look at the beginning of Page 81 of the German text.

My Lord, it is the first break in Page 97.

> "The great historical speech of the Führer's on 21 May of this year, and later the naval treaty, caused a strong *détente* in the field of foreign policy as regards England. But the clear and final definition of the attitude of National Socialism to the Soviet doctrine of state naturally doubled Franco-Russian attempts to cripple us in the east and south-east, without at the same time achieving a *détente* in the other direction by clearly renouncing the annexation, or Anschluss, of Austria.
>
> "Any attempt at an economic and, even more so, at a political offensive by the newly-formed Third Reich in the direction of southeastern Europe must inevitably come up against a front formed by the whole of Europe."

Who put into your mind the question of a commercial or a political offensive in the direction of southeastern Europe? Had you discussed that with the Defendant Von Neurath?

VON PAPEN: No, not at all.

SIR DAVID MAXWELL-FYFE: Do you think you spoke for yourself?

VON PAPEN: Certainly. I am making a negative assertion, Sir David, namely, that an advance into the southeastern area would come up against a front formed by all of Europe. I am thus warning of that.

SIR DAVID MAXWELL-FYFE: You appreciate, Herr Von Papen, that I cannot make any comments at the moment. I can merely draw your attention to matters. All that I am asking you is whether you had got that idea from, say, the Foreign Minister, or whether it was your own idea. You say it is your own idea.

Just look on Page 82.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Page 82. There is a paragraph—My Lord, it is the same page, 97, in the English version—where you go on to say:

"This realistic political survey of the European constellation shows immediately that the German-Austrian problem cannot, at least in the near future, be successfully approached from the direction of foreign politics. We must for the time being be content with not allowing Austria's international status to deteriorate in view of a later solution. In this connection the danger of a nonintervention pact with bilateral treaties of assurance seems to be successfully prevented. The maturing of a solution was and still remains dependent on nothing but the shape of German-Austrian relations."

Why were you so afraid of a nonintervention pact, if your idea was that there should only be an evolutionary solution of Austria based on Austria's will? Why were you afraid of a nonintervention pact which would bind the Reich to not interfering in Austria?

VON PAPEN: For a very simple reason. All political combinations which our opponents were making at the time had only one end, that Austria should be pushed into such a situation, whether it was a Danube pact or a pact with Italy and France, which would make it impossible to advance the thought of the Anschluss. For that reason it had to be and remain our natural political aim that the international status of Austria should not be allowed to deteriorate, as I have expressed it here.

SIR DAVID MAXWELL-FYFE: Yes. That is the answer which I thought you would have to give. Now, just look at Page 83, which is in the very next paragraph:

"The German nation has for centuries had to pursue a veritable path of suffering in order to secure its unity. With the dawn of National Socialism and the founding of the Third Reich by means of the final overthrow of all particulars, an opportunity, unique and never to be repeated, seemed to present itself to complete Bismarck's work and to bring relations between Germany and Austria nearer to a solution, as a dynamic result of internal events in Germany."

I will see if I can put quite shortly what you mean by the completion of this man's work, because I hope we shall not disagree about ancient history, whatever we do about the other. As I understand, your view is that this, Bismarck's setting up the German Empire in 1871, was merely an attempt at a solution which left the Hapsburg Empire separated from Germany, and the final completion of his work was that the old Hapsburg dominions should be brought back with the states which had been in the Holy Roman Empire. Is that roughly the truth?

VON PAPEN: Quite right; not all the Hapsburg states, but Austria, the German part.

SIR DAVID MAXWELL-FYFE: The original Hapsburg domains?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Quite right. I hope I am putting it objectively enough.

VON PAPEN: Oh, yes.

SIR DAVID MAXWELL-FYFE: With regard to that, what did you mean by saying that the solution of the relations between Germany and Austria should be brought about by "dynamic consequences of internal events in Germany"? What did you mean by that?

VON PAPEN: By that I mean the following: Never in Germany's history had it happened that a large party whose aim was Germany's unity existed in both nations. That was a unique historical event. And I wished to state that the dynamic force of this movement in the two countries, which was urging unity, gave promise of a solution.

SIR DAVID MAXWELL-FYFE: You see, Defendant, the difficulty that I want you to explain is: How do you square an approval of centralization in Germany with a Nazi Government whose unscrupulous message you then knew after the affairs since 30 June 1934—how do you square an unscrupulous centralized Germany with an evolutionary solution of the Austrian problem?

That is what that paragraph is saying, you know. What I am suggesting is that it means a much simpler thing than you have told us. It means that you were out to get an annexation of Austria at the earliest opportunity under the National Socialist Reich.

VON PAPEN: Of course, I had to reckon with existing conditions, and I did reckon with them, as any realistic politician would. I wanted to attempt, with the help of the factors present in the National Socialist Party in both countries, to come to a solution. But I see no contradiction, Sir David. You are saying, how could I achieve my aim by centralization. But if you would be good enough to look at the end of this report of mine, then you will find that I am proposing decentralization to Hitler.

SIR DAVID MAXWELL-FYFE: At the moment, you see, I was really asking you for an explanation of what you meant by the expression, "dynamic result of internal events in Germany." In short, I want you to realize, Defendant—I am not going to argue with you, because I ought not to—that the first point of Mr. Messersmith was a question of this action in southeastern Europe; the second point, that Austria was the first line, the first thing to be dealt with. Now, I wonder if you will be good enough to take the same bundle and turn over to Page 102 which is a report of your

own dated 8 October 1935. I want you to deal with Mr. Messersmith's third suggestion against you, which you deny, that you were going to work in Austria by a weakening of the regime.

Now I will just read the first sentence so that you will get the point into your mind. The report that I am dealing with is of 18 October 1935. You are dealing with the Austrian Government reshuffle, and you are saying—My Lord, this is a new document. It is GB-502, Document Number D-718. It is in 11a, Page 106. It begins:

> "Yesterday's Cabinet reshuffle resembles a bloodless insurrection led by Prince Starhemberg and the Heimwehr (Austrian Home Defense Organization). It is clear that Minister Fey heard early of his intended dismissal and that as early as yesterday afternoon he had the public buildings in Vienna occupied by the Viennese Heimwehr, which is loyal to him. The Government countered this measure by simultaneously reinforcing the occupation by Police forces."

Now you go on to discuss the matter. That is at the beginning of the report. Then, if you turn to the next page, at 102, and refer about halfway down the page, you say this:

> "In spite of the Vice Chancellor's clear victory and of the strenuous efforts of the Austrian press to make it appear plausible that the Cabinet reshuffle was carried out for reasons of internal consolidation, the feeling of moving towards a completely uncertain development prevails in the Austrian public, as also in the Heimwehr circles.
>
> "From our point of view the change of affairs is only too welcome. Every new weakening of the system is of advantage, even if it at first seems in fact to be directed against us. The fronts are starting to move and it will have to be our task to keep them moving."

Now, Defendant, by that it is quite clear, is it not, that you meant that so long as there is political uncertainty or political trouble in the Austrian State, it does not matter whether the move may be an anti-German one, so long as the struggle grows with distrust spreading? That was an advantage to Germany, and that is what you want. That is what the lines mean, is it not?

VON PAPEN: No, not quite.

SIR DAVID MAXWELL-FYFE: Not quite?

VON PAPEN: I should like to make the following remarks about your explanation, Sir David. Here in this report we are concerned with a change in the Austrian Government, with Prince Starhemberg and the Heimwehr involved. You know that Starhemberg and the Heimwehr had allied themselves with Mussolini against the German Reich. A loosening-up of this inner-political front which

was working against the interests of a union could be only advantageous, in the light of my policy.

SIR DAVID MAXWELL-FYFE: But what I do not understand is this. You see, you have said, "In spite of the Vice Chancellor's clear victory and of the diligent efforts of the Austrian press . . ." and you go on to say, ". . . every new weakening of the system is of advantage." You see, Prince Starhemberg and the Italian party, according to you, had won, because you say, "In spite of . . ." this ". . . clear victory."

Then you say, "every new weakening of the system." That could not be Starhemberg's alliance, because that had been successful. By "the system" you mean the Government of Austria, do you not? You cannot mean anything else.

My Lord, perhaps I should not continue the argument. But it is a somewhat complicated subject.

VON PAPEN: Yes, it is.

THE PRESIDENT: I was thinking that you should perhaps draw attention to the few remaining sentences.

SIR DAVID MAXWELL-FYFE: Yes, My Lord, certainly I will read on:

> "The continuation of negotiations for a settlement which I had recommended since the Geneva declaration, seems to be entirely superfluous for the time being. It will be a good thing to continue the increasingly excited public feeling against the Italian trend by clever and tactful handling via the press without, however, giving the Government justifiable cause for having recourse to the desperate measure of starting a new propaganda campaign against us. I would be very grateful if the Reich Minister for Propaganda were to put a few experienced journalists to work in this connection.
>
> "For the rest, we can confidently leave further developments to the near future. I am convinced that the shifting of powers on the European chess board will permit us in the not too distant future to take up actively the question of influencing the southeastern area."

Extraordinary—if I may so—extraordinary how Mr. Messersmith had got your ideas if you had never had this conversation with him, was it not?

My Lord, perhaps this will be a convenient time to adjourn.

THE PRESIDENT: We will adjourn at this time.

VON PAPEN: But may I come back to that question tomorrow?

THE PRESIDENT: Yes.

[The Tribunal adjourned until 19 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-EIGHTH DAY

Wednesday, 19 June 1946

Morning Session

MARSHAL: If it please the Tribunal, the report is made that Defendant Von Neurath is absent.

[The Defendant Von Papen resumed the stand.]

SIR DAVID MAXWELL-FYFE: Just before we leave Mr. Messersmith, Defendant, I want to ask you three questions about the other countries in southeastern Europe that Mr. Messersmith mentioned. Did you know that the German Foreign Office financed and directed the Henlein movement among the Sudetendeutschen?

VON PAPEN: I do not believe that I learned of that at that time. In 1935, when this report was written, the Sudeten German question was not acute.

SIR DAVID MAXWELL-FYFE: When did you learn about it?

VON PAPEN: Mainly here in this room.

SIR DAVID MAXWELL-FYFE: I see. Did you know that the Reich was supporting Mr. Codreanu and the Iron Guard in Romania?

VON PAPEN: I believe that that was also much later.

SIR DAVID MAXWELL-FYFE: You learned that sometime later than 1935, did you? When did you learn that?

VON PAPEN: I cannot say; but I believe that events in connection with the Iron Guard in Romania took place about 1937. I may be wrong; but I do not think so.

THE PRESIDENT: Sir David, I think perhaps you have the microphone a little too near you.

SIR DAVID MAXWELL-FYFE: If Your Lordship please, I am sorry.

[Turning to the defendant.] Did you know that in 1944 you were discussed in a Reich state paper edited by the Defendant Kaltenbrunner as being a possible person to do the same thing in Hungary, to arrange for Hungary's acquisition by the Reich, doing the internal work inside Hungary in order that Hungary should be acquired? Did you know that?

VON PAPEN: No. In the first place, I did not know that; and in the second place I may say that the idea is impossible, because I was a close friend of the Regent of Hungary, Admiral Horthy. In my interrogatory to Admiral Horthy I asked him a question which he unfortunately failed to answer because he did not remember. It says that in the autumn of 1943 the Hungarian Minister of the Interior, Keresctes-Fischer, handed me a document showing that German or German and Hungarian forces wanted to bring about the incorporation of Hungary into the Reich through a revolt. At Regent Horthy's desire, I at once handed this document over to Herr Von Ribbentrop and asked him to take the appropriate measures to prevent it. That is all set down in the files, and the Hungarian Minister of the Interior will be able to confirm it.

SIR DAVID MAXWELL-FYFE: You see my point. I do not mind whether you would have taken it or not. The point that I am putting is that you were the choice. Don't you know that? You know the document I am referring to, D-679, with many comments by Kaltenbrunner, in which you were discussed as being the possible person to do the internal work in Hungary.

My Lord, it is Page 78 of Document Book 11, and Page 46 of the German Document Book 11.

VON PAPEN: Sir David, I went over this note the day before yesterday after you submitted it here.

SIR DAVID MAXWELL-FYFE: I will not trouble you with it if you only learned it here. The only point I want to know is this. Did you know in 1944 that you were being suggested in a German state document as being the person who might do the internal work in Hungary in order that Hungary might be acquired by the Reich? If you say you do not know, I shall not trouble you with it any further. You say you only knew that since the day before yesterday?

VON PAPEN: Yes, and in the second place, it is a historical fact that I repeatedly opposed these efforts in Hungary which aimed in one way or another, ultimately by occupation, at making Hungary a part of the German Reich. I considered that the most mistaken and most impossible policy imaginable.

SIR DAVID MAXWELL-FYFE: I will not trouble you about the documents since you have not known; we will come to another point.

You remember Gauleiter Rainer, the gentleman with whom you had the fortuitous and I am sure very interesting talk on the eve of the Anschluss; Dr. Rainer, the witness? I would just like you to look at Dr. Rainer's view of the position when you took over, and tell the Tribunal whether you agree with that.

My Lord, it is Page 6 of Document Book 11; the document is 812-PS. It starts on Page 6 and the passage which I am going to refer to is on Page 8.

Have you got the passage that begins:

"Thus began the first phase of battle, which ended with the July uprising of 1934. The decision for the July uprising was right; but many mistakes were made in carrying it out. The result was the complete destruction of the organization, the loss of entire groups of fighters through imprisonment or flight into the 'Altreich,' and, with regard to the political relationship between Germany and Austria, a formal acknowledgement of the existence of the Austrian State by the German Government. With the telegram to Papen, instructing him to reinstitute normal relationships between the two States, the Führer liquidated the first stage of the battle and began a new method of political penetration."

Would you agree that that is a correct description of your work, "a new method of political penetration"?

VON PAPEN: No, Sir David. That is a very inaccurate description of my activity.

SIR DAVID MAXWELL-FYFE: Well, if you don't agree with Dr. Rainer, tell me—you know, you must know very well, the witness Dr. Paul Schmidt. You know him?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Very well. Now I think you will agree with me that he is one of the personalities against whom nobody had said a word during this Trial. Do you agree? I haven't heard a word of criticism of Paul Schmidt. Don't you agree with me?

VON PAPEN: Do you mean the witness—the interpreter Schmidt or the Foreign Minister Schmidt?

SIR DAVID MAXWELL-FYFE: Paul Schmidt, the interpreter.

VON PAPEN: Paul Schmidt, the interpreter. I will give you my opinion on that.

SIR DAVID MAXWELL-FYFE: Well, do you agree that he is a trustworthy person or not? Do you say that he is not a trustworthy person?

VON PAPEN: I have nothing to say against the human qualities of Herr Schmidt, but I have a very strong objection to the fact that Herr Schmidt takes the liberty of criticizing my political activities in Austria.

SIR DAVID MAXWELL-FYFE: Well, before you explain it, just have a look at it. You will find Dr. Paul Schmidt's affidavit

on Page 41 of Document Book 11, that is Page 37 of the German document book, Document 3308-PS. Now just listen to Dr. Paul Schmidt's view, Paragraph 8:

> "Plans for the annexation of Austria were a part of the Nazi program from the beginning. Italian opposition after the murder of Dollfuss necessitated a more cautious approach to this problem for a time; but the application of sanctions against Italy by the League of Nations plus the rapid increase of German military strength, made the resumption of the Austrian program safer. When Göring visited Rome early in 1937, he declared that the union of Austria and Germany was inevitable and must be expected sooner or later. Mussolini, hearing these words in German, remained silent and uttered only a mild protest when I translated them into French. The consummation of the Anschluss was essentially a Party matter, in which Von Papen's role was to preserve smooth diplomatic relations on the surface while the Party used more devious ways of preparing conditions for the expected move."

Then, Defendant, so that we are being quite clear, he makes a mistake, and it is a speech of Hitler's on 18 February to which, unfortunately, the translator has put your name. I am not relying on that. But what I do want to know whether you agree with is that it was your role, "... to preserve smooth diplomatic relations on the surface while the Party used more devious ways..." Do you agree with that as a correct description of your program, your mission in Austria?

VON PAPEN: On the contrary, Sir David, the exact opposite is the case. I explained my task in Austria very clearly and distinctly to the Tribunal.

SIR DAVID MAXWELL-FYFE: I see.

VON PAPEN: It was a task of pacification and normalization and a continuation of the policy of the grafting together of the two States in an evolutionary way. And now may I say a few words more concerning this affidavit of Dr. Schmidt? At the time when the witness sat here in this chair we established the fact that this affidavit was placed before him when he was still in bed in the hospital after a severe illness, and this document was given to him for his signature...

SIR DAVID MAXWELL-FYFE: Well, with respect to that, the Tribunal will deal with it. We have heard all about it and Dr. Schmidt has been cross-examined and I think you may take it that the Tribunal know everything about the circumstances of the affidavit. If you have anything to comment on the contents of it,

I am sure the Tribunal would willingly let you, but you need not comment on the circumstances. That is all before the Tribunal.

VON PAPEN: I will comment on the contents, I will state that Minister Schmidt, who later played a highly influential role with Foreign Minister Von Ribbentrop, in the years which are under discussion here had a very subordinate position in the Foreign Office which did not afford him insight—any exact insight—into conditions in Austria and into my policy and my reports.

SIR DAVID MAXWELL-FYFE: Well, if that is so . . .

VON PAPEN: Sir David, Herr Von Neurath will be able to confirm that for you tomorrow or the day after.

SIR DAVID MAXWELL-FYFE: Well, we won't argue that any further. The Tribunal have the whole of Dr. Schmidt's record before them and the affidavit. Now you said you told the Tribunal about your conception of your mission in Austria. If that was your conception of your mission in Austria, why was it necessary for you to get hold of the position of the explosive chambers in Austrian strategic roads? That was rather going back to the development of the "top hat" idea to which you objected so strongly, wasn't it?—Well, if you don't remember, let me remind you. It is Document D-689, Page 101.

The Tribunal will find the passage actually on Page 102, and it is 90 and 91 in the German version of Document Book 11, becoming GB-504.

This is the opening of the Grossglockner Road, which, as you know, is a road of some strategic importance going from Salzburg to Carinthia. Do you remember that, after your description about the people being in Salzburg and singing everything except the Horst-Wessel song, and then the German drivers competing, in the third and next paragraph you say:

> "The building of this road is undoubtedly a first-class work of culture, in which Reich-German construction firms took the main and decisive part. The chief engineer of the Reich-German firm which built the tunnel at the highest point offered to inform me of the position of the explosive chambers in this tunnel. I sent him to the military attaché."

That was your combining culture and showing the excellence of German road constructions with obtaining the position of the explosives of the tunnel at the important strategic portion of the road. Why did you consider that of sufficient importance to send it to Hitler with three copies to the Foreign Office?

VON PAPEN: Sir David, I am giving an exact account of what happened at the inauguration of this road.

SIR DAVID MAXWELL-FYFE: I don't want that. The Tribunal can get that. What I am asking you is why you were sending to Hitler the fact that the Reich-German engineer was disclosing to you the explosive chambers on the important part of this road where this road could be blocked? Why were you sending that to Hitler? That is what I want you to tell the Tribunal.

VON PAPEN: Because it seemed interesting to me that this man approached me voluntarily and told me, "At this and this point, the tunnel can be blown up." You know that at that time our relations with Italy were very strained and that Italy mobilized on the Brenner border. For that reason it seemed of interest to me that this new connection between Italy and Germany could be broken again at any suitable time. Moreover, I referred the matter to my military attaché because it did not interest me personally.

SIR DAVID MAXWELL-FYFE: No, you had then moved out of the class of doing that sort of thing yourself. You were the head of the mission and it was a matter for the military attaché.

But was that your plan, Defendant, that, when you introduced German Kultur as showing the road making, at the same time you were getting the strategic information which you could pass on to your Government, undermining the Austrian Government's strategic plans to use the road?

THE PRESIDENT: The defendant said, did he not, that it was a road which joined Germany to Italy?

SIR DAVID MAXWELL-FYFE: Yes, My Lord. The road actually goes from Salzburg, which is practically on the German border, to Carinthia in south Austria, so it was a new highway, taking traffic north and south in Austria.

THE PRESIDENT: Did it actually connect Germany with Italy, or did it connect Austria with Italy?

SIR DAVID MAXWELL-FYFE: Austria.

[Turning to the defendant.] Well, let's take something else in which you were interested. You were also reporting as to where the Austrian supply of munitions and manufacture of munitions were going to be situated, were you not?

VON PAPEN: I do not remember.

SIR DAVID MAXWELL-FYFE: All right, if you don't recall it, look at it yourself. It is Document D-694. You will find it a few pages on.

It is Page 110, My Lord, in the English book; Page 108 of the German book. It will become Exhibit GB-505. Its date is 26 November 1935. It is Page 110 and the passage that I am going to read is Page 111.

Defendant, you ought to find it just at the top of Page 112 of the German version. You are dealing with the influence of Herr Mandel, whose Jewish extraction you referred to, and then you go on to Prince Starhemberg. It reads:

"After the manufacture of munitions for Italy in Hirtenberg had to be stopped because of Italian protests, he, Mandel, loaded the entire factory on to the railway, in order to continue work in Italy."

Then, note the next words in brackets:

"Incidentally, an interesting situation for Austria's supply of munitions . . ."

Was that one of your conceptions of restoring normal relations, that you should report on the movements in the Austrian munition manufacture?

VON PAPEN: No, that was not my task proper, but this report shows, Sir David, that I was repeating a talk with the Polish Minister Gavronski, who told me that this munitions factory, the only one which existed in Austria, was being moved to Italy. I wrote, with regard to this, that it is a remarkable circumstance if a country has to get its munitions supplies from a foreign country. You must surely admit that that is a peculiar situation and one that deserves inclusion in a report.

SIR DAVID MAXWELL-FYFE: That is your explanation. I won't waste time on it.

Now, I want to pass—and again I want to deal with it very quickly—to your own personal experiences in Austria.

You remember when you went to the Salzburg Festival in 1935, when you had been there about a year; do you remember? I don't know because you probably went every year.

The point that I want to remind you of is this. Do you remember when you went there that 500 National Socialists greeted you with music and made such a demonstration that some other guests in the hotel wanted to telephone or telegraph to the Federal Chancellery to say that the German Ambassador had caused a great Nazi demonstration? Do you remember that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: My Lord, the reference to that is at Page 102, Document D-689, which I have already referred to, Page 102 of Document Book 11.

Well now, let me take another example. Do you remember the meeting of the comrades of the first World War at Wels?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: That was, if my recollection is right, in 1937, was it not?

VON PAPEN: Quite right, yes.

SIR DAVID MAXWELL-FYFE: And all the preparations had been made for a nonpolitical meeting, a reunion of the Austrian regiments and old comrades from the German regiments, and after the meeting they were to have a sort of dinner or lunch together, and the evening was to finish in jollity and song. That was the program, wasn't it?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: That meeting was addressed by General Glaise-Horstenau and yourself?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: General Glaise-Horstenau—without any disrespect to him—I think you will agree made a not very powerful speech. That was your impression, wasn't it, a not very powerful speech? Interesting but not dynamic? Believe me, I am not being offensive to the general. I am merely trying to get the point.

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: You made a speech which lasted for quite a short time, didn't you? Do you remember?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: After your speech, there was beating and shooting through the streets of Wels, wasn't there? There was a riot there, wasn't there?

VON PAPEN: May I give you a more exact description?

SIR DAVID MAXWELL-FYFE: Well, if you can. I wanted to establish the fact. You are perfectly entitled now to give your explanation.

THE PRESIDENT: Is there a document on this?

SIR DAVID MAXWELL-FYFE: There is no document on this.

VON PAPEN: A meeting had been arranged in Wels between organizations of the old German Army from the first World War, the so-called Warriors' Society, (Kriegerverein) and the veterans' associations of Austria. It was perfectly legitimate and in the spirit of our joint policy that the mutual experiences during the first World War should be renewed between these formations. At this meeting, which according to my wish and that of the Austrian Government was to be completely nonpolitical in character, the following events took place: When I arrived, the place where this

meeting of veterans' associations was held, was surrounded by between 5,000 and 10,000 people. The Austrian Government, to receive their German guests, brought an honor company of the Army, and when the Austrian band played the Austrian national anthem on my arrival, these 10,000 people who surrounded the place sang the German national anthem, for the tune is the same, as you know.

When in the course of the celebration I made a brief speech I found myself constantly interrupted by thousands of people, in a demonstrative manner. Of course, I immediately realized that the Austrian National Socialists had planned a big political demonstration here; so I broke off my speech, and shortly afterwards I left the place, and left Wels also.

It is quite true, as Sir David said, that when the celebration broke up and the Austrian police wanted to proceed against the thousands of persons who were demonstrating, very unfortunate incidents occurred.

SIR DAVID MAXWELL-FYFE: Now, if that is your explanation, I have put the facts of the incident. Now I want to pass to another point, because I can only give examples of your activities in Austria.

Before you heard the evidence of the Defendant Seyss-Inquart, do you remember the phrase "the Trojan Horse technique" being referred to with regard to Austria?

VON PAPEN: Yes. Seyss-Inquart did not want to lead the Trojan Horse.

SIR DAVID MAXWELL-FYFE: Yes, but before that, you know, you had referred to the Trojan Horse technique.

My Lord, it is Document Book 11, Page 133. The passage I am referring to is from Page 134. The document is D-706, which will become GB-506. It is Page 163, Sergeant Major.

That is your report of 21 August 1936, where you quote an instruction of the Prague Secret Service to its Vienna branch, which says:

> "Unfortunately it must be noted that the wild National Socialist excesses of 29 July of this year have not had the result we expected. Austria's approach to the Third Reich in the field of foreign politics is making further progress, as well as the process of cultural collaboration between the two sister nations. One can also assume from your most recent reports that the Trojan Horse of National Socialism is bringing greater confusion into the ranks of the Fatherland Front and particularly into the ranks of the Heimatschutz

(Home Guard). Opposition to the normalizing of German-Austrian relations, which is extremely dangerous to Austrian independence, appears nevertheless to be relatively very great; it obviously lacks only good organization."

Now, does that Czech report describe correctly what was going on, the superficial normalization of relations and the Trojan Horse movement working inside the country?

VON PAPEN: Sir David, that is the opinion of the Czech Secret Service and perhaps of the Czech Government.

SIR DAVID MAXWELL-FYFE: May I remind you, Defendant, that it is the opinion quoted by you in your report to the Führer, and not contradicted. There is not a word in your report suggesting that it is not the truth. In fact you say you introduce it, "To illustrate the present position in Austria . . ."

You are introducing it as correct information for the Führer, so you cannot, I suggest, write it off by saying it is merely a Czech report.

VON PAPEN: Yes, I do. Let me point out that this report was written on 21 August 1936. That is 1 month after the conclusion of our July Agreement, which you asserted was a deceitful maneuver, but which we and the Austrian Foreign Minister established as a very seriously intended agreement. We were now on a completely different basis with Austria and for that reason I quoted this peculiar Czech report as an interesting document to show how, in spite of our efforts for normalization, the Czechs regarded matters in Austria.

THE PRESIDENT: Are you leaving that document?

SIR DAVID MAXWELL-FYFE: I was, my Lord.

THE PRESIDENT: What about the last paragraph?

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, I will certainly deal with that.

THE PRESIDENT: Page 134.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases.
It goes on:

"Besides, it appears hopeless and also impracticable for us to strive to influence Austrian legitimism or the Heimwehr movement. There are, on the other hand, comparatively strong elements in Austrian Catholicism which could, with certain reservations, be called democratic. These elements, which are gradually grouping themselves round the Freiheitsbund (Freedom League) and which are inclined on principle to work for an agreement with the Social Democrats,

represent, in our opinion, that group which would in certain circumstances be inclined to bring about a revolution in internal politics in Austria."

Did you put that forward as also representing your view?

VON PAPEN: Sir David, I gave the Court a most exact explanation of the aims and character of the Freiheitsbund yesterday; and the Court knows from the report that the Czech Government endeavored to exert a certain amount of political influence on this Freiheitsbund. That is quite clear from the connection. This is all in the Czech report.

SIR DAVID MAXWELL-FYFE: Then you were putting it forward, were you not, as your view to Hitler that, to speak loosely, the Catholic Left might be used as a means of approach by you. That is really what you are saying.

VON PAPEN: Sir David, surely you do not want to impute that I submitted a Czech report to Hitler in order to identify myself with this report.

SIR DAVID MAXWELL-FYFE: Yes, that is what I am accusing you of. If you write to the head of the State, "To illustrate the present position in Austria, I append an extract from a report . . ." then what I am suggesting is that that means this report accurately represents the position, as I see it. That is what I am putting to you.

VON PAPEN: No, for another report which you also submitted to the Court shows that I asked Hitler to work against these efforts made by the Czech Government to exert influence on the Freiheitsbund by binding it to ourselves. I am of quite different opinion.

SIR DAVID MAXWELL-FYFE: Defendant, you asked Hitler to give 100,000 Reichsmarks to the Freiheitsbund. That is exactly what you are following out in what you have suggested here, that they might be a body who would be a useful *point d'appui* for you in order to gain an influence with another section of Austrian opinion. I am suggesting to you that the two things are quite consistent. You tell Hitler that they are useful.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And you support them with 100,000 Reichsmarks. That is what I am putting to you.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: That you were all the time burrowing under one section of Austrian opinion after another in order to work towards the suppression of the freedom of Austria—that is what I am putting to you. I do not think there is any doubt about it.

VON PAPEN: Sir David, if this report shows anything clearly, it is the fact that, apart from the National Socialists in Austria, there were other groups, namely, the Christian Trade Unions and the Freiheitsbund, who worked politically towards the union of the two countries. And you cannot say I am committing a crime if, as a diplomat who wants to bring about such an aim in an evolutionary way, I co-operate with the interests of these groups.

SIR DAVID MAXWELL-FYFE: There was not anything very evolutionary about the Trojan Horse, was there? However, that may be comment. Let us go on to another point.

Did you know Baron Gudenus?

VON PAPEN: No, I did not know him.

SIR DAVID MAXWELL-FYFE: You know that he was the closest confidant of the Archduke Otto. Do you remember?

VON PAPEN: Yes, that is shown in my report.

SIR DAVID MAXWELL-FYFE: Yes. Well now, let us just look and see what Baron Gudenus had to say.

Your Lordship will find that on Page 93, and it is 72 to 75 of the German version, Document D-687 which will become GB-507. It is Paragraph 2 (b) and it appears on Page 74, Defendant.

"Baron Gudenus, the closest confidant of the Archduke Otto, writes to . . . "

There is a mistake there, my Lord. The "me" should be "one."

" . . . one of my acquaintances on 30 March:

". . . I brought back many gratifying impressions of the progress of our Movement with me from Austria; but I cannot deny that in some respects the Government's policy worries me greatly. Of what use is it that the ringleaders of February and July 1934—or those of them who were caught—are sentenced, if the Government is too weak, too slovenly, or intentionally too tolerant, to prevent 'brown' and 'red' propaganda being carried on privately unhindered in the cinema, in the press, and on the radio, and mainly by State officials or organs of the Fatherland Front, supported and paid by financial and other means which are pouring in bountifully from Germany. What is that learned idealist Schuschnigg actually doing? Does he not notice that Papen and the other 'brown' agents in his own country continually spit into the hand so persistently held out to them? He must not imagine that he can thus maintain and save Austria, as long as Hitler rules in a Germany which is painted brown inside and out. The methods over there have, it is true, become more clever and more careful, but this makes them all the more dangerous."

That was about 7 months after your arrival.

"Sinister also are the continual differences between Schuschnigg and Starhemberg . . ." and so on.

Now, isn't it correct, Defendant, that anyone, that everyone, even a visiting monarchist agent, knew that these activities were going on with you on the top and the Austrian National Socialist Party working underneath?

Before you answer, it is only fair to look at your own comment on that.

"The difficulties of the internal Austrian situation could hardly be described more graphically than in this letter."

Why did you not say to Hitler, if these were the facts: "Baron Gudenus is talking nonsense. I am carrying out a perfectly honest moral assignment for the normalizing of relations with Austria." Why did you not deny it, if it was not true?

VON PAPEN: It seems to me that this report shows, in the first place, that I passed on to Hitler with complete frankness all the reports which I received, even that of an adherent of the Hapsburg restoration. Obviously to 100 percent . . .

SIR DAVID MAXWELL-FYFE: I am suggesting, Defendant, that you passed them on because they were true; you adopted them and passed them on to Hitler because they were true reports; that that was a true picture of the situation. That is what I am suggesting to you. You just tell the Tribunal, were they true or were they not? If they were not true, why did you pass them on without saying they were not true? That is what I am asking you.

VON PAPEN: If you read this report by Baron Gudenus, you will see that he speaks of internal conditions in Austria and of the sinister differences existing between Schuschnigg and Starhemberg, the rivalry between their guards, and the constant underground Republican sentiment.

SIR DAVID MAXWELL-FYFE: Yes, that is 3 lines out of 20. There is a lot more before you come to that part. That is what I am asking you about; the other 17 lines of the report.

VON PAPEN: Sir David, the points which I have just mentioned are proof of the internal weaknesses of the Austrian Government, on which I am reporting. If you mean that I should have explained to Hitler that I was not a "brown" agent, well surely on 26 July we came to a very clear agreement as to under what conditions my work in Austria was to be done. There was no necessity for me to explain that to Hitler in a report. I sent this report for his information only.

SIR DAVID MAXWELL-FYFE: If that is your explanation, just look at the next paragraph of your letter. It shows in another way how you were working. Paragraph 3:

"The film 'The Old and the Young King'. . ."—the Tribunal may not remember, but you correct my recollection. That is a film, if I remember rightly, dealing with Friedrich—the relations of Friedrich Wilhelm I and Friedrich the Great. Am I right?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: "The film 'The Old and the Young King' was shown here for the first time a few days ago in the presence of Herr Jannings."—That is Emil Jannings, the actor.—"It provoked enthusiastic demonstrations. The scene where the king stresses the fact that 'French trash and Roman books do not mean anything to Prussia' led to particularly vociferous applause. The police wanted to ban it. Together with Herr Jannings, we explained to them that, should this film be banned, we would take steps to prohibit the showing of all Austrian films in Germany. This had the desired effect. The film—except for the above-mentioned scene, which was expunged—is being shown now and will be shown on the screen at Klagenfurt and Graz within the next few days.

"Yesterday I received Jannings and a number of actors from the Burgtheater as my guests. He said he was very satisfied with his success, and we discussed in detail plans for a Bismarck picture for the production of which I recommended Beumelburg to write the script."

That is, you were forcing a film which contained Prussian propaganda to be shown in Austria on the threat of excluding Fräulein Wessely and "Maskerade" and the other Austrian films of that time from the German market; you were forcing your propaganda on the threat of excluding Austrian films; is that right?

VON PAPEN: Yes, and I will also tell you the reason. I must enlarge your historical knowledge of these things, Sir David. Frederick the Great played a very important part in the relations between Germany and Austria, as you know; and at that time we were trying, in the relationship between our two countries, to clear up the historical inaccuracies which originated in the time of Frederick the Great. For this purpose the famous Austrian historian, Professor Srbik, wrote a big work. The film which we are discussing served the purpose of showing that a great German history is common to both peoples alike. To help the cultural *rapprochement* of the two countries I insisted that this film should be shown, and this was done.

SIR DAVID MAXWELL-FYFE: I have not the slightest doubt about your motives in wanting the film to be shown, Defendant, but what I am asking you is, why you pressed it against the wish of the Austrian authorities by threat of excluding Austrian film production from the German market? Why did you threaten the Austrian authorities in that way?

VON PAPEN: It frequently happened that the Austrian police were afraid that certain films might be made a basis for demonstrations. But after we had talked matters over with the police, and had agreed that certain parts of the film should be cut, they were quite ready to admit it; and of course, I also told them that if we did not reach an agreement, the consequences would be that Germany would send no more films to Austria.

SIR DAVID MAXWELL-FYFE: Well, again I put the point. Do you remember telling the Tribunal that you did not keep up contacts with the NSDAP in Austria? Is that correct?

VON PAPEN: No, it is not correct.

SIR DAVID MAXWELL-FYFE: You did keep up contacts?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Close contacts?

VON PAPEN: I did not understand.

SIR DAVID MAXWELL-FYFE: Intimate contacts? Were your contacts close?

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: Well, if they were not, will you just turn a page back. It is probably Page 72 of your report. It is the same report.

My Lord, it is Page 93 of Your Lordship's book.

You began that report by saying:

"I have first to report on the development of the local NSDAP:

"On 23 March complete agreement was reached in Krems between Captain Leopold, (Retd.) and Generaldirektor Neubacher. In accordance therewith, Neubacher subordinated himself to Leopold in every way and recognized him as Führer for Austria. As soon as Schattenfroh is released from the concentration camp, he will become deputy leader, while Neubacher, as the closest confidant of Leopold, will be consulted on every important question."

Furthermore, Leopold has nominated somebody else and asked him to be deputy, while:

"Major General Klupp, (Retd.) will be taken into consultation in strict confidence," and I want to read the last lines:

"Furthermore, Leopold expressed the desire that at long last, the continual intrigues against him on the part of *émigrés* living in the Reich—of the type of Frauenfeld and his friends—be stopped."

That is a pretty complete picture of the set-up of the Party in Austria, wasn't it?

VON PAPEN: Well, Sir David, may I call to your attention the fact that this report is dated 4 April 1935, a date previous to the July Agreement, when my interest in these Party affairs can still be readily understood.

SIR DAVID MAXWELL-FYFE: Well, if you attach importance to the date, just look at the report of 1 September 1936, which is on Page 33 of Document Book 11, Page 26 of the German book. You remember this is the report which you referred to, and you said:

"For the method to be employed (Marschroute) I recommend on the tactical side continued and patient psychological treatment, with slowly intensified pressure directed at changing the regime."

You told the Tribunal that that meant you wanted a change in the officials of the Ministry of the Interior. I am not going to trouble about a statement like that, but just go on for a moment:

"The conference on economic relations proposed for the end of October will be a very useful tool for the realization of some of our projects.

"In discussion both with Government officials and with leaders of the illegal Party (Leopold and Schattenfroh) who take their stand entirely on the Agreement of 11 July, I am trying to direct the next developments so as to aim at corporative representation of the Movement in the Fatherland Front."

Now, it is quite clear, is it not, that you were on 1 September 1936, after the agreement, having discussions with the leaders of the illegal Party, Leopold and Schattenfroh, so may we take it—I don't want to spend time on it—that throughout your time in Austria you were in close and constant touch with the leaders of the Austrian National Socialist Party?

VON PAPEN: No, Sir David, the conference which you just mentioned refers to and is justified by the July Agreement; I have already explained that to the Court yesterday. In the July Agreement Federal Chancellor Schuschnigg promised that members of the National Opposition would be called upon for co-operation. Consequently it was, of course, my duty to be interested in whether

and to what extent the co-operation of such forces was actually sought by Schuschnigg. That was the subject of this talk with the leaders, and I can state expressly that my contact with the Austrian Party, after the July Agreement, was only in this connection.

SIR DAVID MAXWELL-FYFE: I see. Well, I am not going to go into that further. I have referred the Tribunal to two documents, and there are other references which I need not worry about.

I want you to come now to November 1937. Could you fix as carefully and closely as you can the date of your meeting with the Defendant Seyss-Inquart at Garmisch?

VON PAPEN: Yes, I met the Defendant Seyss-Inquart by accident—that is, not by appointment—at the Olympic Winter Games at Garmisch-Partenkirchen in January 1938.

SIR DAVID MAXWELL-FYFE: January 1938. I just want to collate these dates. You had become very friendly with the Foreign Minister Guido Schmidt, who gave evidence here, had you not?

VON PAPEN: I was on very friendly terms with the Foreign Minister, yes.

SIR DAVID MAXWELL-FYFE: Yes, you gave him the "Du," although you were 20 years his senior; you had given him the "Du" for some time? You had been on intimate relations? Is that right?

VON PAPEN: I do not think that a friendship can be measured by 20 years' difference in age. I regarded Herr Schmidt, as I have said, as an upright man.

SIR DAVID MAXWELL-FYFE: I think you will agree with me that it is unusual for an Ambassador to be on terms with a Foreign Minister, especially one 20 years his junior—not his contemporary—on such terms that he used the familiar "Du" to him. Won't you agree with me that it is a quite unusual form of intimacy between an Ambassador and a Foreign Minister?

VON PAPEN: Sir David, if you had ever been in Austria in your life, you would know that in Austria almost everyone says "Du" to everyone else, and to clear up this incident, may I add the following: On the day of our separation, when I left Austria, I said to Foreign Minister Schmidt, of whom I am very fond, "Dear friend, we have worked together so much, now we can say 'Du' to each other."

SIR DAVID MAXWELL-FYFE: Now, what I am interested in is this: It was in November 1937 that you and Dr. Guido Schmidt first began to discuss the question of Herr Schuschnigg meeting Hitler, was it not?

VON PAPEN: I believe that I discussed this matter not only with Foreign Minister Schmidt but also with Herr Von Schuschnigg himself at that time. After a discussion between them . . .

SIR DAVID MAXWELL-FYFE: Just a moment; will you answer my question? You discussed with Schmidt—you heard Dr. Schmidt give his evidence that the Defendant Göring had told him with great frankness, as the Defendant Göring said he told everyone else and has told this Court, that he was out for the union of Germany and Austria by any means and at all costs. You heard Dr. Schmidt say that Göring had told him that that was his view, and I say, in all fairness, it is perfectly consistent. It is the view he has expressed here and apparently to a lot of other people. Do you remember that Dr. Schmidt said that? You can take that from me.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: We have heard that the Defendant Göring said that, not only to Dr. Schmidt, but to Mussolini and to the High Tribunal, and I think to several other people. Had he never said it to you?

VON PAPEN: No, Sir David. With regard to the Austrian . . .

SIR DAVID MAXWELL-FYFE: Did you know that it was his view?

VON PAPEN: No.

SIR DAVID MAXWELL-FYFE: You didn't know that was Göring's view?

VON PAPEN: Please let me say something. Of course, I knew that Göring's wish was to bring about a union of the two States, and I myself was present at the talk with Mussolini.

Please consider, however, that at that time Herr Göring was not competent to decide foreign policy. The question of what our policy in Austria should be had been agreed upon between Hitler and myself exclusively and I do not remember discussing it with Marshal Göring in the years between 1936 and 1938.

SIR DAVID MAXWELL-FYFE: I am dealing with November 1937, at the moment, and 3 months later the Defendant Göring was very competent in foreign politics in the Austrian question, as you, who listened to the accounts of his telephone conversations, must know.

I just want you to take the dates as we have got them now. Göring had told Schmidt his views; you and Schmidt were discussing this meeting between Schuschnigg and Hitler. In January you had a political discussion with Dr. Seyss-Inquart at Garmisch.

I am one date out of order. On 11 November, as Mr. Dodd put to Dr. Seyss-Inquart, he had written a letter to Dr. Jury saying, "I don't think anything will happen this year, but the developments will take place in the spring." Then, after that letter, he sees you

at Garmisch in January, and in February you finally arrange this meeting between Schuschnigg and Hitler.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Didn't you know very well that the whole object of the meeting was to get Herr Schuschnigg to agree to the Reich's wishes, the appointment of Seyss-Inquart, a general political amnesty which would release all the members of the Nazi Party in Austria and put them at the disposal of their leaders, and a declaration of equal rights for the Party? Didn't you know that the whole object of the meeting was to get Herr Schuschnigg to agree to these terms so that you would have the Austrian National Socialist Party unfettered and free to work for Germany's interests in Austria?

VON PAPEN: In my talk with Dr. Seyss-Inquart in Garmisch-Partenkirchen we discussed the necessity of making the Austrian Nazi Party independent, that is, under all circumstances removing it from the influence of the Reich, in the form agreed upon in the July Agreement, and with the aim that the way should be paved for a union of our two countries, and that that aim should be pursued from the Austrian side in terms of foreign policy, and not by the Reich.

When I met Seyss-Inquart in Garmisch no mention was ever made of this meeting between Hitler and Schuschnigg. I was at that time not in a position to know whether such a talk would ever take place. That was not decided until 5 February, as you will recall. In other words, we discussed only the perfectly general question of how we could get nearer to our goal.

May I further recall to your memory that Dr. Seyss-Inquart had received an official commission from the Federal Chancellor to investigate all existing possibilities of incorporating the National Opposition, that is, the Austrian National Socialist Party, into Schuschnigg's political program. That was his official mission, so that after all I had a right to discuss these things with him.

SIR DAVID MAXWELL-FYFE: Wasn't Dr. Rainer—the witness that the Tribunal has seen—wasn't he present at the Garmisch meeting too?

VON PAPEN: That seems to have been the case, Sir David; I do not remember it any more. Seyss-Inquart has told me that it is possible that Dr. Rainer joined us on a walk. I personally do not remember. I did not carry on any political discussion with Rainer.

SIR DAVID MAXWELL-FYFE: Well now, you have given your explanation as of the turn of the year. I just want to remind you of one other point. You were very well aware of the Von Blomberg

and Von Fritsch crisis in the Army, were you not? I don't want to go into disagreeable details again, because it is not at present before the Tribunal, but you knew that that crisis had arisen?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: I am sure you will see the importance of this. General Von Fritsch had been at the War Academy with you, had he not?

VON PAPEN: Yes, quite right.

SIR DAVID MAXWELL-FYFE: He was an old friend, and you knew, as I think everyone who has mentioned his name in this Court has said, that General Von Fritsch was a man of the highest character and that the sort of charge that was brought against him was one which anyone who knew him would regard with ridicule if it wasn't so tragic, and they would regard it with contempt? That was your view?

VON PAPEN: Absolutely.

SIR DAVID MAXWELL-FYFE: And you had a pretty good idea, had you not, apart from the treatment of Field Marshal Von Blomberg, that Von Fritsch had been the subject of a trumped-up charge in order to prevent him becoming head of the Armed Forces? You knew that, didn't you?

VON PAPEN: In any case, that became clear to me later, when I learned of the circumstances.

SIR DAVID MAXWELL-FYFE: No, no, that is not the important thing, Defendant, your state of mind on 5 February 1938. You knew by then that the Nazi clique in the Government had brought a framed-up charge against a man whom you regarded as the soul of honor, did you not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Now with that knowledge, on 5 February, after you see Hitler, you tell him about the fact that Schuschnigg may come, and he jumps to it at once. He says, "Go and get Schuschnigg," doesn't he? He was quite bored, if I may put it that way, with what you had to say up to that point. As soon as you say there is a chance of a meeting with Schuschnigg, Hitler seizes it like a trout to a May fly, doesn't he, or rather, like a lion to the kill; that is right, isn't it?

VON PAPEN: Yes, Sir David. I described to the Court the impression made on me by events in Berlin and by my own dismissal on 4 February. Do you think it is surprising that I now tried, just because I was afraid another course would be adopted, to bring about this long-desired discussion between the two chiefs of state which I hoped would clear up the differences and prevent

the adoption of a radical course? I told Foreign Minister Schmidt and Chancellor Schuschnigg that, when I asked them both to take part in a discussion to clear up matters if they could possibly do so.

SIR DAVID MAXWELL-FYFE: Now, Defendant, I am not going to go through the circumstances of the meeting of 12 February, because I went through them with the Defendant Von Ribbentrop and the Court is well aware of them.

I want to ask you this one question, and I do ask you to consider it carefully because the question of your own veracity may depend on it.

Are you now saying that there was no pressure put on Herr Schuschnigg at that interview?

VON PAPEN: Sir David, I never made such a statement—you know that yourself, because it is in my reports; I myself said that pressure was exerted.

SIR DAVID MAXWELL-FYFE: What I am asking you is this, and please let me make it quite clear because the Court have heard the evidence of your friend Dr. Schmidt and a lot of other evidence. I only want to ask you the one question, and please get it clear.

Do you now, on this day, say that pressure was not put on Chancellor Schuschnigg to make him agree to the terms of 12 February? That is the one question I want to ask you, and I give you the chance of answering. What do you say today? Was or was not pressure put on Herr Schuschnigg?

VON PAPEN: Yes; I never denied it. I do not understand why you ask me. I never denied it.

SIR DAVID MAYWELL-FYFE: Herr Von Ribbentrop denied it quite strongly, but we won't go into that.

Now, one other question and then I am finished with Austria.

Did you arrange a meeting between Hitler and Cardinal Innitzer?

VON PAPEN: Yes, I did; and that was . . .

SIR DAVID MAXWELL-FYFE: Did you arrange that the leaders of the Church and the diplomatic corps, apart from the French and British representatives, should be present at Hitler's entry into Vienna?

VON PAPEN: As for the leaders of the Church, it is not customary for them to be present at parades, and I certainly did not suggest it. As to the diplomats . . .

SIR DAVID MAXWELL-FYFE: Did you arrange for the diplomatic corps to be present?

VON PAPEN: It is possible that some of my diplomatic colleagues asked me if they could attend this ceremony, and I said that of course they could attend; why should they not?

SIR DAVID MAXWELL-FYFE: Well, I am not going to argue about the way you put it.

My Lord, I have now finished with Austria. I have three very minor matters which I hope will take a short time, but this might be a convenient period in which to recess.

THE PRESIDENT: Yes.

[A recess was taken.]

SIR DAVID MAXWELL-FYFE: Defendant, are the Tribunal to take it that broadly you were against the anti-Semitic movement and propaganda?

VON PAPEN: On the contrary, it was my aim and my desire, and it constituted the entire program of my work, to contribute as far as possible to a union between the two countries, because that was the great wish of the German nation.

SIR DAVID MAXWELL-FYFE: I do not think you can have understood my question. Let me repeat it. I am now coming to the Jews.

VON PAPEN: Oh, the Jews?

SIR DAVID MAXWELL-FYFE: Yes. Now, let me repeat it again. Are the Tribunal to take it that broadly you were against anti-Semitic action and propaganda?

VON PAPEN: Yes; I have already told the High Tribunal just what my attitude in principle was toward the racial question and toward the question of the elimination of foreign influence in certain cultural aspects of public life. These are two entirely different questions, however.

SIR DAVID MAXWELL-FYFE: Yes, I appreciate that. Now, will you look at Document 3319-PS, which is Exhibit GB-287?

My Lord, it begins at Page 48 of Document Book 11a. It is on Pages 44 and 45 of the German book.

The part I want you to refer to is on Pages 58 and 59. This, Defendant, is from a confidential report of the work session of the consultants on Jewish questions of the German missions in Europe, on 3 and 4 April 1944. I want you just to look at Page 44, I think, of the German version, Page 58 of the English, at the contribution to this discussion of a certain Herr Posemann, from Turkey. Was he from your staff? If you would not mind, just say "yes" or "no," because it must go to a short end . . .

VON PAPEN: May I tell you just who Herr Posemann was?

SIR DAVID MAXWELL-FYFE: I said, if you would tell me, was he a member of the Embassy staff, and if not, what was he; that is what I want to know.

VON PAPEN: No; certainly not. Herr Posemann was a German bookseller who had settled in Ankara. He was certainly not a member of my Embassy.

SIR DAVID MAXWELL-FYFE: I see. Well, at any rate, he was a consultant of the German Foreign Office for this discussion. Now, just listen to what he says:

"Early last year the Turkish Government struck a blow at Jewry in connection with an attempt to solve the minorities problem. Very drastic measures were taken to carry out this action. Suspicions on the part of Allied circles that purely anti-Jewish measures were concerned were countered by Turkey with references to simultaneous measures taken against the minorities. At any rate, Turkey abandoned further measures to find a solution of the minorities problem and therewith of the Jewish problem. For this reason it is impossible to continue to practice anti-Jewish propaganda under our direction at the present moment, as it is undesirable and would be a burden on Turkey's present foreign policy. There are no anti-Jewish publications in Turkey, apart from caricatures and comic books about Jews. The first signs of realization of the extent of international Jewish domination are evident in the translation of the *Protocol of the Elders of Zion* and of Ford's book, *The International Jew.* The sale and distribution of these brochures have been promoted by the Embassy. For the time being, work is possible only within this narrow range since, as was already emphasized, an anti-Jewish propaganda obviously inspired by Germany might cause us unfavorable political complications."

Now, do you believe in the *Protocol of the Elders of Zion?* Do you believe it is a correct and authentic work?

VON PAPEN: Not at all, no.

SIR DAVID MAXWELL-FYFE: Then why was the marketing of these brochures being promoted by the Embassy?

VON PAPEN: Perhaps I may give the Tribunal a very brief explanation on the whole connection of this meeting. The meeting had been called by the Foreign Office, and was to be attended by experts from the embassies and legations who had been specifically employed to deal with the Jewish problem. In my Embassy

there was no such expert, as I always refused to have one. For this reason the Party had of its own accord instructed the bookseller Herr Posemann to deal with this problem, and had delegated him to attend this conference.

If Herr Posemann here sets forth that the Embassy circulated the propaganda brochures which are mentioned here, then he is gravely mistaken. Firstly, the Turkish Government would never have tolerated the circulation of such material, and secondly, you, Sir David, can convince yourself today that all these brochures are still lying in the basement of my Embassy at Ankara.

SIR DAVID MAXWELL-FYFE: So that this statement made at the Foreign Office meeting, you say, is wrong?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: You say that you had nothing to do with that; that is your answer? I want to ask you one or two things about the Catholic Church. You remember the Fulda Declaration of the Bishops?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: That is right, is it not? That was made and based on an assurance which Hitler gave to the Church of his good intentions, on 23 March 1933? Do you remember Hitler's making a statement like that?

VON PAPEN: Not only on the 23d, but also in the Government declaration Hitler expressly stated his view that every policy must be based on both the Christian denominations.

SIR DAVID MAXWELL-FYFE: Now, that in turn was the result, at least in part, of a statement of yours at a Cabinet meeting on 15 March 1933, when you stressed the importance of incorporating political Catholicism into the new State; that is a correct and factual statement, is it not? That is the way the thing works out?

VON PAPEN: Completely, Sir David.

SIR DAVID MAXWELL-FYFE: Yes.

VON PAPEN: I made every effort to induce Hitler to establish this Christian basis of his policy firmly by means of solemn engagements; and I think I have already explained to the High Tribunal that I really made every effort to carry through this program.

SIR DAVID MAXWELL-FYFE: Now let me ask you to look once again at Document 11, Page 96; Page 78 of the German version, which is Document 2248-PS. It is your report to Hitler of 27 July 1935. Now in that report you use these words: "...the clever hand which eliminates political Catholicism without touching the Christian foundations of Germany..."

My Lord, it is on Page 99 of the English text and it is Page 86 of the German text. My Lord, it is the first paragraph, Page 99:

> "Cultural problems have a special significance. The way in which Germany deals with her political and religious difficulties, the clever hand which eliminates political Catholicism without weakening the Christian foundations of Germany will not only have a decisive reaction on England or Catholic Poland. We may rather say that the solution of the German-Austrian question stands or falls with it."

Now, what I want you to bear in mind: This is your account to Hitler in July 1935, over 2 years after the Concordat: ". . . .the clever hand which eliminates political Catholicism without touching the Christian foundations of Germany . . ." Now your counsel quoted one passage of His Holiness the Pope's allocution, and I would just like you to look and tell the Tribunal whether you agree with the next passage, which occurs after the bit quoted by Dr. Kubuschok.

My Lord, this is a new document—no, My Lord, I am sorry. It is an old exhibit. It is Document 3268-PS, which is Exhibit USA-356. Your Lordship remembers that Dr. Kubuschok quoted a portion, in his document book, of the Pope's allocution. My Lord, I have some extra copies.

Now after the bit which Dr. Kubuschok quoted as to the Concordat having prevented worse evils, His Holiness goes on to say:

> "The struggle against the Church did, in fact, become more and more embittered: the disbanding of Catholic organizations; the progressive suppression of the flourishing Catholic schools, both public and private; the enforced weaning of youth from family and Church; the pressure brought to bear on the conscience of the citizens, and especially of civil servants; the systematic defamation, by means of clever, closely organized propaganda, of the Church, the clergy, the faithful, and of the Church's institutions, teaching, and history; the closing, disbanding, and confiscation of religious houses and other ecclesiastical institutions; the complete suppression of the Catholic press and publishing houses."

Do you agree with His Holiness that that is a correct description of the action of the German Reich against the Catholic Church?

VON PAPEN: Completely.

SIR DAVID MAXWELL-FYFE: Well now, I would just like you also to look at the "Mit Brennender Sorge," which is Document 3280-PS.

Your Lordship will find it at Page 40 of Document Book 11—I am sorry, My Lord, it is Page 47. I said 40. It is 40 of the German text.

Now, if you notice, that is quite early, on 14 March 1937, 4 years after the Concordat, and he says in the second sentence at the beginning:

> "It discloses intrigues which from the first had no other aim than a war of extermination. In the furrows in which we had labored to sow the seeds of true peace, others—like the enemy in Holy Scripture—sowed the tares of suspicion, discord, hatred, calumny, of secret and open basic hostility to Christ and His Church, fed from a thousand different sources and employing every available means. They, and they only, along with their silent or vocal protectors are responsible for the fact that on the horizon of Germany there is now to be seen, not the rainbow of peace, but the threatening stormcloud of destructive religious wars."

Now, Defendant, what I want you to tell the Tribunal—do you agree with that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: If you agree with these statements of the head of the Church, how could you possibly write to Hitler, 2 years after the Concordat, in July 1935, that he had "eliminated political Catholicism without touching the Christian foundations of Germany"? It was absolutely wrong, wasn't it, that Hitler and the Nazis had not touched the Christian foundations of Germany? They had uprooted them and were in process of destroying them?

VON PAPEN: Sir David, you are confusing two completely different things, political Catholicism . . .

SIR DAVID MAXWELL-FYFE: Defendant, I don't want to interrupt you, but I have made that point quite clear. The point I am putting to you is not the elimination of political Catholicism. I am not, for the moment, dealing with the relation between you and Monsignor Kaas. What I am dealing with is your other statement, that it had been done without touching the Christian foundations of Germany. What I am putting to you is what His Holiness is saying, that the Christian foundations of Germany were being destroyed. I don't mind, for the moment, about the views that Monsignor Kaas had of you or you had of Monsignor Kaas. I know what they are.

VON PAPEN: Let me explain these things to you. The struggle against the Church and its institutions, against which His Holiness the Pope inveighs in his encyclicals in the years 1937 and 1945, and in which he recognized the intensification of the situation obtaining during the war—all of these things were an attack on the Christian foundations of Germany, an attack which I always condemned most

strongly. But this has no connection at all with the elimination of so-called political Catholicism for which I hoped and which I demanded. These are two completely different things. Perhaps it is hard for you to understand, since you are not familiar with circumstances in Germany.

SIR DAVID MAXWELL-FYFE: Please believe, Defendant, that I have spent a great deal of time in pursuing the troubles between you and Monsignor Kaas. I am not going to bring them out before the Tribunal because they are not important. I appreciate and agree—not as well as you do, but I appreciate the position of political Catholicism and I am not asking you about that. I am asking you about your statement. Why did you say to Hitler that he had not touched the Christian foundations of Germany? That is what I want to know. You must have known in 1935 that that wasn't true?

VON PAPEN: But, Sir David, that is a complete distortion of the contents of this report. I am telling Hitler that the Christian foundations of Germany must not be weakened and that may still be read in the report today: "Political Catholicism must be eliminated without weakening the Christian foundations of Germany."

SIR DAVID MAXWELL-FYFE: Well, you appreciate how it begins. You say ". . . that a clever hand which eliminates it without touching . . ." Just let me remind you: Didn't you say, in your interrogation, that your trouble—part of your trouble in the summer of 1934, before you made the Marburg speech, was due to the nonfulfillment of the Concordat, that after it had been signed, with the consent of Hitler, ". . . he treated it just as a scrap of paper and I couldn't do anything"? Then there was the persecution of the Churches and the Jews at the same time. That was late in 1933 and in 1934. Is that your view in 1934, ". . . that there had not only been treating of the Concordat as a scrap of paper but persecution of both the Churches and the Jews"?

VON PAPEN: I do not know which document you are quoting from, Sir David.

SIR DAVID MAXWELL-FYFE: This is your interrogation on the morning of 19 September 1945.

VON PAPEN: Yes, of course. When I delivered the Marburg speech, I believed that the State was violating all these things; otherwise, I would not have made the speech. But in this speech, Sir David, I again expressly emphasized the fact that no European occidental state can exist without a Christian foundation, and that by disregarding our Christian basis we would cut ourselves off from the group of Christian peoples and from our mission in Europe.

I could scarcely say it more clearly than that. And perhaps I can tell you something else on the subject of political Catholicism. You have...

SIR DAVID MAXWELL-FYFE: Do as you want to. I especially want to avoid burdening the Tribunal with the exchanges between you and Monsignor Kaas, because both of you used harsh language and it might not sound very good if I repeated it now. If you want to go into it, do, but don't open it up unless you must.

VON PAPEN: I regard this accusation which you are making against me as one of the most tremendous for it violates my whole conception.

SIR DAVID MAXWELL-FYFE: Defendant, you remember you told the Tribunal just before the adjournment that you had introduced Cardinal Innitzer to Hitler when you went into Austria. You remember that after the statement to which Dr. Kubuschok has referred, that Cardinal Innitzer in a broadcast from Rome made it clear that he was only accepting the Nazi rule of Austria on certain conditions. Do you remember that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Now, I would just like to see what happened to Cardinal Innitzer.

This is a new document, My Lord, D-903, which becomes GB-508. My Lord, this is a statement in the form of an affidavit from a priest, Dr. Weihbacher, which I only got from Vienna on 7 June.

You will see that this priest—well, at any rate I take it he is a priest; he is the archbishop's secretary in the cathedral chapter. Let's just look at it.

> "On 8 October 1938"—that is a little over 6 months after you had arranged for Cardinal Innitzer to meet Hitler—"a serious attack was made by youthful demonstrators on the archbishop's palace in Vienna. I was present during the attack and can therefore describe it from my own experience."

Then he describes how they smashed window panes, broke in the gate. The priests took the archbishop into an inner room and hid him there. They took the cardinal to safety in the personalia archive and locked the iron door behind him, and:

> "... then we two priests, seeing ourselves opposed by a crowd of invaders, personally took up a stand at the entrance to the cardinal's house chapel in order to prevent any destruction from being wrought there at least."

My Lord, this is about 10 lines from the foot of the page.

> "Shortly after we had reached the chapel, the invaders stormed into the cardinal's rooms adjoining the chapel. As soon as

they reached the door we warded them off. Pieces of wood came flying into the chapel; I received a push that knocked me over; but we managed to prevent them from entering the chapel. The demonstrators were youths aged from 14 to 25 and numbering about a hundred. After we had warded off the first troop, we opened up the Tabernacle and consumed the consecrated wafers so as to prevent the Most Holy from being desecrated. But new invaders were already storming in; and we warded them off. In the meantime an indescribable orgy of destruction was going on in the remaining rooms among all the fittings. With the brass rods holding the carpet in place on the staircase, the youths destroyed tables and chairs, candelabras and valuable paintings, and in particular all the crucifixes."

Then it describes the plate-glass doors and so on, and there was an alarm when the cardinal was discovered. This priest himself was dragged from the chapel by about six people and dragged across the anteroom to the window with shouts of "We'll throw the dog out of the window."

And then, eventually, the police came, and you will notice their idea of what was proper reparation.

"Then a lieutenant colonel of police arrived and apologized. He was followed by a representative of the Gestapo who expressed his regret that the police had not been very active in their intervention.

"Meanwhile other demonstrators attacked the cathedral rector's house at 3 Stephansplatz where they threw the cathedral curate Krawarik out of the window into the yard. This priest lay in hospital until February with both thighs fractured."

Now I ask you to look at the penultimate paragraph:

"That the demonstration was not the result of youthful wantonness or embitterment, but a well-laid plan known to official quarters, is obvious from the speech of Gauleiter Bürckel who, on 13 October on the Heldenplatz, in the basest possible manner represented the cardinal as guilty."

Now, Herr Von Papen, you had a great responsibility in relation to Cardinal Innitzer, had you not? You had introduced him to Hitler. You must have learned from the ramifications and communications of the Catholic Church of this attack on the cardinal's house 6 months after the Anschluss, did you not? You must have learned of this.

VON PAPEN: I heard about it later, of course.

SIR DAVID MAXWELL-FYFE: What protest did you make when you heard of this disgraceful attack on the principles of the Church, the throwing of the cathedral curate out of the window and breaking both his thighs, the desecration of the chapel, the breaking of crucifixes? What protest did you make about it?

VON PAPEN: I should like to remind you, Sir David, that I had resigned from office more than 6 months before and no longer had anything whatsoever to do with these matters. Naturally the details of the incident were in the highest degree regrettable and, indeed, amounted to criminal attacks; but the details did not appear in the German press, so that I am probably seeing them for the first time in this form here. But let me add . . .

THE PRESIDENT: But, Defendant, you haven't answered the question. The question was: What complaint did you make about it?

VON PAPEN: I made no protest, for I was no longer in an official position at the time. I was a private citizen, and all I learned officially about these things was what the German papers were allowed to publish.

SIR DAVID MAXWELL-FYFE: Oh, Defendant, surely you have told us that you were one of the leading Catholic laymen in Germany. You are not going to tell the Tribunal that in the Catholic Church it wasn't known to every bishop in Germany and probably to every parish priest that this abominable and sacrilegious insult had been offered to a prince of the Church in his own house in Vienna. Surely it would permeate through the Church in a few days.

VON PAPEN: That is quite possible, Sir David; but would you expect me, a private citizen, to do anything? What could I do? The Tribunal did not take notice of the discussion which I brought about between Cardinal Innitzer and Hitler. You mentioned that for the first time here today.

SIR DAVID MAXWELL-FYFE: That is exactly why I am putting this incident to you, that you were responsible for bringing about the meeting between Cardinal Innitzer and Hitler in March of 1938. When His Eminence is attacked in October, I should have thought—it is not for me to express my thoughts—that you might have taken the trouble to protest to Hitler, and all that you do is to take another job under Hitler within 6 months, in April 1936.

What I am asking you is why you didn't make a protest. You could have written to Hitler. The Defendant Göring has expressed his great religious interests. A number of the other defendants have said that they had great religious sympathies. Why couldn't you have got in touch with them?

VON PAPEN: Because in autumn 1938 I retired from political life; I was living in the country and was no longer taking any active interest in politics. But perhaps I may say just why I was responsible for promoting a meeting with Cardinal Innitzer.

SIR DAVID MAXWELL-FYFE: No, that is not the point that I am interested in at the moment, the meeting on 15 March. I am interested in the fact that this took place, that you knew of it, and made no protest.

Now I am going to come to another point. Dr. Kubuschok can raise it later on, if he wants.

Defendant, you have heard a number of your codefendants giving evidence and saying that they didn't know of the terrible repressive measures that were taking place in Germany. You knew very well about these repressive measures, did you not? You knew about the action of the Gestapo, the concentration camps, and later you knew about the elimination of the Jews, did you not?

VON PAPEN: I only knew this much, that in the years 1933 and 1934 political opponents were interned in the concentration camps. I very frequently protested against the methods used in concentration camps. In various cases I liberated people from these camps; but at that time I was quite unaware that murders had even been committed in them.

SIR DAVID MAXWELL-FYFE: Well now, just let me take that up. It is good to get down to a concrete instance.

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: You remember that at the beginning of 1935 your secretary, Herr Von Tschirschsky, was ordered to return from Vienna to Berlin for examination by the Gestapo. Do you remember that?

VON PAPEN: Yes, indeed.

SIR DAVID MAXWELL-FYFE: And you remember that he refused to go and he sent you a detailed report of his reasons for not going? Do you remember that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Just let us look at that together very shortly.

My Lord, that is Document D-685, which would become Exhibit GB-509; Your Lordship will find it at Page 87 of Document Book 11, and it is at Page 60 of the German version.

Now, at Page 87 there is Herr Von Tschirschsky's own letter to you, in which he says, at the end of the second paragraph: "I am

not in a position . . . to comply with the Gestapo demand to report to Berlin for interrogation."

And then he says that—to quote his own words—that he has been influenced only by the "human, understandable desire to live" and then he sends a report, he encloses a report, to you of what had happened to him on 30 June which got him into the bad books of the Gestapo.

Do you remember that?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: And summarizing the beginning of it, which would be almost humorous if it did not show such a dreadful state of affairs, your secretary, Herr Von Tschirschsky, was arrested simultaneously by two competing groups of Reich policemen, I think the Criminal Police and the Gestapo, and there was a severe danger of Herr Von Tschirschsky and some of the police being shot before they could decide who was to take him into custody. But I want you to come to when he is taken into custody.

My Lord, it is at Page 89, and it is at the end of Page 65 of the German version, Defendant.

You see, this is after, I think, the Gestapo had won the internecine struggle and it got possession of the body of Herr Von Tschirschsky, and then he says, just toward the end—My Lord, it is the middle of Page 89.

He is told the other police are following the Gestapo and he says:

". . . we went to the Gestapo building in the Prinz Albrecht-Strasse and through a courtyard to a back entrance. There was another exchange of words between the two groups of Criminal Police. I again joined in this debate and suggested as a way of clearing up the misunderstanding that a man from each of the groups should see some higher authority in the building and let him decide what should be done. There would still be three Criminal Police officials and four SS men available to guard me and the other two gentlemen. This course was adopted; and eventually they came back and explained that the misunderstanding was now cleared up and we could be taken away. Whereupon we were taken by three SS men, not accompanied by the Criminal Police officials, on a lengthy trip through the building into the basement. There we were handed over without comment and were ordered by the SS men on duty there to go and sit on a bench against the wall, in the passage. We were then forbidden to talk to each other. I spent a few hours like this sitting on the bench. It would make too long a story to give further details of the

events which took place during this time. I will therefore restrict myself to the case of the shooting of a well-known personality who was publicly stated to have committed suicide.

"The person in question was brought in under the escort of three SS men and led past us into a cell running parallel to our corridor. The leader of the detachment was an SS Hauptsturmführer, short, dark, and carrying an Army pistol in his hand. I heard the command 'Guard the door!' The door leading from our corridor into the other one was shut. Five shots were fired and immediately after the shots the Hauptsturmführer came out of the door with the still smoking pistol in his hand, muttering under his breath, 'That swine is settled.' Feverish excitement reigned all around; cries and shrieks of terror were heard from the cells. One of the SS men on duty, a comparative youngster, was so excited that he apparently lost all consciousness of the entire situation and informed me, illustrating his remarks with his fingers, that the person concerned had been liquidated by means of three shots in the temple and two in the back of the head."

You had a pretty good idea of SS and Gestapo methods after Herr Von Tschirschsky had given you that report, hadn't you?

VON PAPEN: Yes, and you can also see that this report . . .

SIR DAVID MAXWELL-FYFE: Tell us, before we leave that elevating extract which I have just read, who was the well-known person who was supposed to have committed suicide and who was shot with three shots in the temple and two in the back of the head. Who was it?

VON PAPEN: I cannot tell you. I do not know.

SIR DAVID MAXWELL-FYFE: Do you mean to say that Herr Von Tschirschsky was on your staff for several months afterwards and he never told you who this was?

VON PAPEN: I do not recall, Sir David, that he discussed this matter with me; and in any case I may have forgotten it. In any event one of the personalities who died on 30 June.

SIR DAVID MAXWELL-FYFE: Just pause. You say you might have forgotten. Do you mean that dreadful occurrences like this were so familiar to you that you cannot remember the account of the actual shooting of a supposed suicide who was a prominent person?

Have another think. Cannot you tell the Tribunal who this unfortunate man was?

VON PAPEN: If I remembered that, I would willingly tell you. I have no reason to conceal the information.

SIR DAVID MAXWELL-FYFE: Well now, just let the Tribunal see how you passed this on to Hitler. You believed, did you not, that Herr Von Tschirschsky was telling the truth? You said so. You believed he was telling the truth, didn't you?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Well now, will you look at page . . .

My Lord, it is Page 86 of the English version; and, Defendant, it is 58 of the German book, Page 58.

THE PRESIDENT: Sir David, are you going to investigate the facts as to what happened to the man who made this report?

SIR DAVID MAXWELL-FYFE: My Lord, yes, I will clear that up, I am so sorry.

Defendant, just before we come to what happened when he made the report, Herr Von Tschirschsky himself was—I think he went to a concentration camp and had his head shaved and then eventually after a certain period he was released and rejoined your service and was in your service up until February of 1935. Is not that so, Defendant?

VON PAPEN: Yes, that is quite correct.

SIR DAVID MAXWELL-FYFE: I am sorry, My Lord. That takes up the story until we come to February 1935. He is then asked to report to the Gestapo and then this correspondence takes place.

Now, you see that in your letter to Hitler of 5 February, which is Document D-684, Exhibit GB-510, you say:

> "As already reported yesterday by telegram, I have passed on to Herr Von Tschirschsky the order of 2d instant, repeating the demand that he appear on the date fixed by the Gestapo, 5 February.
>
> "He then announced to me officially that he would not comply with this order as he was convinced that he would be killed in one way or another. He will give all his reasons for this refusal in a report which I will submit as soon as I receive it.
>
> "Yesterday I finally relieved Herr Von Tschirschsky, whom I had already suspended for the duration of the proceedings, of his post. It goes without saying that I shall break off all connections of an official nature as soon as the files and such have been handed over tomorrow."

Then you say you telegraphed the Defendant Von Neurath and you had given Herr Von Tschirschsky sick leave. Then just look at the last paragraph.

"After I had repeatedly asked that Herr Von Tschirschsky be given a chance to clear himself before a regular judge of the charges laid against him, I am naturally exceedingly sorry that the affair is now ending thus. I left nothing undone to induce Herr Von Tschirschsky to take the course indicated to him of submitting to interrogation by the Gestapo."

Defendant, is that right, that you left nothing undone to get this man in your staff sent to his death to be murdered by the Gestapo?

VON PAPEN: I think it would be fair, Sir David, to call the attention of the High Tribunal to the other letters which show that I asked Hitler not only once, but repeatedly, to have the matter of Tschirschsky investigated by means of a regular trial.

SIR DAVID MAXWELL-FYFE: That is quite true and it was referred to in that letter.

VON PAPEN: Yes, of course, but please let me finish . . .

SIR DAVID MAXWELL-FYFE: Quite true.

VON PAPEN: When this proposal was turned down and the Führer would not agree to have a regular trial, he, Hitler, let me know that he would use his personal influence, and that he would assume personal responsibility that nothing would happen to Herr Von Tschirschsky if he was investigated by the Gestapo. You will also find that in these letters. The Führer promised him exceptional immunity if he would allow himself to be interrogated by the Gestapo. Therefore, after the suggestion for a regular trial had been turned down and Hitler had promised that nothing would happen to Herr Von Tschirschsky, I asked Herr Von Tschirschsky to submit to the investigation, as the charges made against him had to be cleared up somehow. But I believe . . .

SIR DAVID MAXWELL-FYFE: Would you turn back to your letter of 31 January, which you will find . . .

THE PRESIDENT: Sir David, I think you should read the whole of this letter which you have just been on, 5 February, at some stage.

SIR DAVID MAXWELL-FYFE: My Lord, I will. My Lord, I am so sorry. My Lord, I do not want to omit anything; but I am, of course, trying to shorten the matter; but I will read anything Your Lordship wants.

THE PRESIDENT: The Tribunal ought to be in possession of the whole letter. You stopped at the word "courier," in the middle, with reference to reporting.

SIR DAVID MAXWELL-FYFE: Yes, My Lord. With reference to reporting his dismissal to the Austrian Government:

"With regard to reporting his dismissal to the Austrian Government, I am afraid that if I dismiss him abruptly tomorrow, the matter will become the theme of public discussion. I think this scandal should be avoided and I have therefore given Herr Von Tschirschsky sick leave in the meantime, as far as the public is concerned. I shall report his dismissal later.

"I shall return to the Tschirschsky affair and its connections with other current Gestapo questions in Vienna later, in a detailed report."

My Lord, I am grateful.

THE PRESIDENT: You left off after the word "Gestapo" in the next paragraph.

SIR DAVID MAXWELL-FYFE: Yes, I will read the whole thing again.

"After I had repeatedly asked . . ."

THE PRESIDENT: No, you read that down to "Gestapo," but you did not go on with the rest.

SIR DAVID MAXWELL-FYFE: "But if he persists in his resolve to avoid this interrogation, even though he knows that this means social and material ruin for himself and his family, and as he has given me his word that he will do nothing while an *émigré* which would be harmful to the Führer and to the country, I can only add my wish that everything should be avoided which could turn this affair into an open scandal."

I am grateful, My Lord.

Now, Defendant, you had already said to Hitler on 31 January, which was 5 days before that—Page 84, My Lord, and the foot of Page 55 and the beginning of 56 of the German book:

"Herr Von Tschirschsky, whom I have, incidentally, for the time being relieved of his duties, has now learned from several sources which he—and I myself as well, unfortunately—regards as authentic, that some persons belonging to the Gestapo have for some considerable time been planning to liquidate him."

My Lord, that will be Document D-683, Exhibit GB-511.

You believed that it was authentic on 31 January that the Gestapo wished to neutralize him. On 5 February, in the part that the Tribunal just asked me to read, you say it will be the ruin of his social and material position for himself and his family, but if

the thing is kept quiet, your wish is that everything be done to avoid a scandal.

Now, Defendant . . .

VON PAPEN: My wish was first of all that everything possible should be done to have the matter cleared by means of a public trial.

SIR DAVID MAXWELL-FYFE: That was your first wish, but you very soon gave that up.

VON PAPEN: Just a moment, please. After Hitler had refused to agree to my wish, and after he had determined that Von Tschirschsky would enjoy the personal protection of Hitler during his investigation by the Gestapo—that is, if the head of the State says "I will be responsible for the fact that nothing will happen to Herr Von Tschirschsky!" then you will allow that naturally the only course of action open to me is to say to Herr Von Tschirschsky, "Take this course and let them interrogate you; for after all you have to clear yourself of the suspicion resting on you."

SIR DAVID MAXWELL-FYFE: Defendant, let me remind you that there is not a word in your letter of 5 February about any promise from Hitler to give an indemnity to Herr Von Tschirschsky. All that you are saying is that he will disappear into disgrace. There is nothing in any other letter either.

VON PAPEN: Yes. It is in one of Tschirschsky's reports. I cannot find it at the moment.

SIR DAVID MAXWELL-FYFE: Well, if you can find anything about an indemnity, I can only tell you that I have not been able to find it in any of your letters.

VON PAPEN: But it is there.

THE PRESIDENT: Perhaps the defendant could look for this document at the recess, at 1 o'clock.

SIR DAVID MAXWELL-FYFE: Yes, very well. My Lord, if there is such a document, I am very sorry; I don't know about it.

Yes, My Lord; I am sorry. I think I have got the reference. On Page 91, My Lord. It is not in the defendant's letter, but there is a reference in Herr Von Tschirschsky's report. On Page 91, My Lord. Page 69. It says:

> "In conclusion—the reason why I feel myself under no obligation either to appear before the Gestapo or to return to the Reich at all, in spite of the extraordinary protection promised me by the Führer and Reich Chancellor—I make the following declaration:

"During the period of my activities in Berlin, information had already frequently reached me to the effect that there existed in the Reich a terror organization which had sworn the oath of mutual allegiance in life and death. It is expressly pointed out to men who are or who may be accepted into this brotherhood that they are under an obligation to submit to the secret court and that they are in duty bound when carrying out their tasks to feel that they belong in a high degree to the brotherhood and only in a smaller degree to Adolf Hitler. I could not have believed this monstrous thing, had I not been informed of it about 6 months previously by a man in the Reich—I wish to stress this particularly—who is not opposed to the Third Reich, but quite the opposite, a man who in his innermost convictions believes in Adolf Hitler's mission, a Reich-German and a National Socialist of many years' standing, who himself at one time was to be asked to join this brotherhood but who was able to withdraw from it cleverly. This man has assured me of his willingness publicly to announce the names which he mentioned to me of members of this brotherhood, or to swear an affidavit to this effect in case these people should be already dead. He must only be assured that this terrorist brotherhood is no longer active, especially as there are persons belonging to this brotherhood who are among those most trusted by the Führer and Reich Chancellor."

I am sorry; I knew there was nothing in the letters from the defendant, but I had forgotten that there was this passage in the letter.

Now, that was Von Tschirschsky. You told us that Baron von Ketteler was murdered at the end of your time in Vienna. You remember Baron von Ketteler's father was murdered, if my memory is right, and that caused the German expedition against the Boxers in China. That is the family the gentlemen belonged to, is it not?

VON PAPEN: Yes.

SIR DAVID MAXWELL-FYFE: Now, the effect of this, the murder of Von Ketteler, on you after the experience with Von Tschirschsky was that you were ready to take new employment under the Nazi Government in Turkey.

There is just one other point that I want to put to you.

VON PAPEN: May I add just a few remarks on this point? I told the Court . . .

SIR DAVID MAXWELL-FYFE: Herr Von Papen, I will finish on that because I think we have the other reference to Marchionini's affidavit, and then you can make all the other remarks you like.

Why didn't you after this series of murders which had gone on over a period of 4 years, why didn't you break with these people and stand up like General Yorck or any other people that you may think of from history, stand up for your own views and oppose these murderers? Why didn't you do it?

Now you can give your explanation.

VON PAPEN: Very well. You can see that I submitted Von Tschirschsky's report on these murders to Hitler, in all its details, but what you do not know is the fact that I myself frequently told Hitler that such a regime could not possibly last; and if you ask me, Sir David, why despite everything I remained in the service of the Reich, then I can say only that on 30 June I personally broke off the relations into which we had entered on 30 January. From that day onward I did my duty—my duty to Germany, if you wish to know. I can understand very well, Sir David, that after all the things we know today, after the millions of murders which have taken place, you consider the German people a nation of criminals, and that you cannot understand that this nation has its patriots as well. I did these things in order to serve my country, and I should like to add, Sir David, that up to the time of the Munich Agreement, and even up to the time of the Polish campaign, even the major powers tried, although they knew everything that was going on in Germany, to work with this Germany.

Why do you wish to reproach a patriotic German with acting likewise, and with hoping likewise, for the same thing for which all the major powers hoped?

SIR DAVID MAXWELL-FYFE: The major powers had not had their servants murdered, one after the other, and were not close to Hitler like you. What I am putting to you is that the only reason that could have kept you in the service of the Nazi Government when you knew of all these crimes was that you sympathized and wanted to carry on with the Nazis' work. That is what I am putting to you—that you had this express knowledge; you had seen your own friends, your own servants, murdered around you. You had the detailed knowledge of it, and the only reason that could have led you on and made you take one job after another from the Nazis was that you sympathized with their work. That is what I am putting against you, Herr Von Papen.

VON PAPEN: That, Sir David, is perhaps your opinion; my opinion is that I am responsible only to my conscience and to the German people for my decision to work for my fatherland; and I shall accept their verdict.

SIR DAVID MAXWELL-FYFE: My Lord, I have finished.

[The Tribunal adjourned until 1400 hours.]

Afternoon Session

THE PRESIDENT: Had you finished, Sir David?

SIR DAVID MAXWELL-FYFE: Yes, My Lord, I had finished.

THE PRESIDENT: Did any of the other prosecutors wish to cross-examine?

Dr. Kubuschok?

DR. KUBUSCHOK: In the cross-examination yesterday it was pointed out to you that in your report to Hitler of 27 July 1935—British Document Book 11a, Page 79—you point out that, according to legal findings, leading Reich-German personalities applied the use of force in Austria in July 1934. In this connection you mentioned the name Habicht. I should like to receive some information about the personality of Habicht. Was Habicht a Reich German?

VON PAPEN: Habicht was a Reich German and had his headquarters in Munich. He was Provincial Inspector (Landesinspekteur) of the entire National Socialist Party in Austria. That means the following:

The Austrian Party had a Gauleiter in Austria, but it was directed from Munich from the Reich Party Directorate by a specially appointed Landesleiter, Provincial Inspector Habicht. Since this man had charge of the whole Austrian Party, his position in the Party was, of course, considered as a leading one. One could not call him a "liaison officer," but a leading Reich-German personality.

DR. KUBUSCHOK: In cross-examination yesterday various letters were submitted to you which you wrote to Hitler between 4 and 17 July 1934. These letters should be gone into more closely. What was the purpose of the letters?

VON PAPEN: I am glad to have an opportunity to go into this correspondence once more. One must consider the situation which existed at that time: Bose shot, three co-workers arrested, great excitement; and everyone who was in any way in opposition was under suspicion of being connected with this SA revolt. It was similar to the situation after 20 July 1944.

Therefore the first goal was to clear up the Bose case as well as the other cases through legal proceedings. I requested that in my first letter of 4 July. I also demanded this rehabilitation in further letters, but it was a prerequisite to establish first of all that we were not in any way connected with the SA conspirators.

DR. KUBUSCHOK: In the letters you assure Hitler of your faithfulness and loyalty. Is this not astonishing after the events of 30 June?

VON PAPEN: It may seem astonishing to an outsider, but not to a person who remembers the hysterical atmosphere of those days, for at that time everyone who had been in any opposition at all or who had criticized the system was branded as a co-conspirator. For that reason I thought it advisable to make it clear, by means of such a letter, that I and the Vice Chancellery had nothing to do with this conspiracy.

DR. KUBUSCHOK: The representative of the Prosecution thinks your letters have only the purpose of rehabilitating your own person. What do you have to say about this?

VON PAPEN: I ask that the Tribunal study these letters. In them it can be seen that I repeatedly pointed out that my co-workers too must be absolutely rehabilitated. In the letter of 12 July, on Page 3, I say that the honor of my own officials is also my own honor; and I repeatedly demanded that the Bose case be cleared up.

DR. KUBUSCHOK: What did you believe to be able to achieve through the legal proceedings which you suggested?

VON PAPEN: Legal proceedings would have had two effects: In the first place, nonparticipation in the Putsch would have been established; and that would necessarily have shown that the arrest of my co-workers and the killing of Bose had been an arbitrary act, an act for which those responsible were to be punished.

DR. KUBUSCHOK: In a letter of 14 July you welcomed Hitler's speech of justification before the Reichstag on 13 July. What comment do you have to make on this?

VON PAPEN: I may ask you to look at the text of this letter. I welcomed the suppression of the intended second revolution, but this must by no means be taken as recognition of the acts of violence carried out against persons not participating in the revolution; and furthermore, the following is to be considered: The events of 30 June were divided into two parts. In the first place, Hitler himself had turned against the revolting SA; the fact that such a revolt was actually planned seemed quite credible to all of us, for the rumors of a second revolution had been current in the country for weeks. In Marburg I had already made reference to it. The revolt of the SA leaders, who represented an effective power, could be considered a danger to the State; and the executions had been directed against SA leaders who were especially well-known and whose names were connected with the excesses of 1933.

The second part of the action had been directed against persons outside this circle. Slowly the news of the individual cases leaked out. The justification for taking steps against these persons was in part explained by saying that they had some sort of connection

with SA leaders and that some of them had offered resistance. That had to be cleared up, for here an emergency law could be referred to; but it was not possible to deviate from an orderly legal procedure. Hence my letter to Hitler of 12 July, in which I asked him not to deviate from the orderly legal procedure. I warned him against identifying himself with these events, and I demanded from him—referring to the Bose case—the latter's rehabilitation and legal proceedings.

THE PRESIDENT: We have got the letters, Dr. Kubuschok.

DR. KUBUSCHOK: Yes, the purpose of this questioning is to clear up the matter and to explain the contents of the letters, but I believe the defendant has said enough and we can go on to another question now.

Your letter of 17 July is signed without a complimentary closing, and also deviates from other letters in its general form. How do you explain this?

VON PAPEN: On 17 July, I had to consider my efforts to achieve legal proceedings as having failed. I had not even received my files back. For that reason, I gave up further efforts and there was no longer any reason to announce my resignation publicly.

DR. KUBUSCHOK: You mean to put it off.

Now I come back to a document which the British Prosecution referred to today. It is 2248-PS in the British Document Book 11a, Page 99. The representative of the British Prosecution has tried to obtain an explanation from the defendant. I believe difficulties in the translation and the manner of expression in general have made it a bit hard to understand. I will read the sentence in question once more and ask the defendant to explain this sentence. I will quote on Page 99 of the English text, the second paragraph from the top.

"The way Germany . . ."

THE PRESIDENT: Dr. Kubuschok, we have had a very long explanation already.

DR. KUBUSCHOK: Mr. President, the explanation suffered from the fact that the defendant did not understand the translation correctly or that the British Prosecution did not understand the defendant. The form of the German text is not clear. The defendant will be able to explain it very easily. The explanation goes . . .

THE PRESIDENT: All right, go on then, go on.

DR. KUBUSCHOK: "The way in which Germany deals with politico-religious difficulties, the clever hand which eliminates political Catholicism without touching the Christian foundation

of Germany, will not only have a decisive effect on England," *et cetera.*

Please explain the sense of this sentence which I have just read.

VON PAPEN: I meant to say to Hitler, "You must eliminate political Catholicism with a clever hand, but the religious foundation must under no circumstances be touched." It depended upon the clever solution of this question . . .

THE PRESIDENT: No question of translation arises. The passage was read to us *verbatim* as it is before us, and it was read by Sir David Maxwell-Fyfe to the defendant, and the defendant has given the same answer over and over again in answer to Sir David.

DR. KUBUSCHOK: Mr. President, may I point out the following: The whole sentence was in the future tense, the whole sentence . . .

THE PRESIDENT: It was read to us just now by the interpreter *verbatim* in the words which are before us in the book and the words which were put by Sir David Maxwell-Fyfe to the defendant. There is no question of difference of tense at all.

DR. KUBUSCHOK: Mr. President, there is a special language difficulty, because in the first part the first two verbs are in the present tense in connection with the auxiliary "wird" used later; and in accordance with German language usage the present is to be understood as meaning the future also. In the opinion of the British Prosecution, the first two verbs "deals" and "eliminates" are to be considered past tense, and that is the difference.

THE PRESIDENT: It is a matter of verbal argument on the words of the document.

DR. KUBUSCHOK: Yes. Now one last question to the witness.

A while ago Cardinal Innitzer's talk to Hitler in Vienna was discussed. What occasioned you to arrange this meeting of Hitler with Cardinal Innitzer?

VON PAPEN: With our march into Austria and the Anschluss of Austria to the Reich, Hitler had joined a Catholic country to Germany; and the problem, which was to be solved, was winning this country from the interior as well. That was possible only if Hitler recognized the religious basis, recognized what rights Catholicism had in this country; for this reason I arranged a talk between Cardinal Innitzer and Hitler in order to make sure that Hitler in the future would follow a policy which stood on a Christian basis in Austria.

By arranging this interview, I thought I would be able to do one last service for Austria; that was the reason.

DR. KUBUSCHOK: That is the end of the examination.

THE PRESIDENT: I have just two or three questions I should like to ask you.

When did you first hear about the murder of Jews?

VON PAPEN: I believe, My Lord, that that was during the war.

THE PRESIDENT: Well, the war lasted 6 years. When during the war?

VON PAPEN: I cannot say with certainty, My Lord. I cannot say on my oath when it was.

THE PRESIDENT: You cannot say with more certainty than that?

VON PAPEN: No; our general knowledge was that the Jews were sent to camps in Poland. But we knew nothing of a systematic extermination of Jews such as we have heard of here.

THE PRESIDENT: The witness whose affidavit your counsel has put in evidence, Marchionini, what do you know about him?

VON PAPEN: Marchionini, My Lord, is a very well-known professor who was employed by the Model Hospital in Ankara and who was also my family doctor.

THE PRESIDENT: Have you got your volumes of exhibits before you?

VON PAPEN: No.

THE PRESIDENT: Could the defendant have Volume III?

[The documents were handed to the defendant.]

Volume III; it's in the affidavit from Marchionini, the last paragraph of the answer to Question 6.

VON PAPEN: One moment, My Lord. I have not found it yet.

THE PRESIDENT: There is no hurry.

VON PAPEN: I have the affidavit now.

THE PRESIDENT: Do you have Question 6, or rather the answer to Question 6?

VON PAPEN: The questions are not numbered here.

THE PRESIDENT: It is the last question but one.

VON PAPEN: Yes.

THE PRESIDENT: In the answer to that question, he says this:

> "I clearly remember an incident in spring 1944 when I called upon Von Papen at the request of Herr Barlas, the Refugee Commissioner of the Jewish Agency, to request his assistance in saving 10,000 Jews in France from deportation to Poland for extermination. These Jews had formerly held Turkish nationality which they later renounced."

Then, he says, through your intervention "... the lives of these Jews were saved." Is that statement true?

VON PAPEN: Yes, certainly.

THE PRESIDENT: So at any rate by the spring of 1944 you knew that 10,000 Jews in France were about to be deported for extermination?

VON PAPEN: I believe they were to be deported to Poland, My Lord. But we did not know in 1944 that they were to be exterminated. We wanted to protect them from deportation.

THE PRESIDENT: I thought you said the statement was true.

VON PAPEN: For the purpose of exterminating—I believe that was not said to us at the time. The question was only whether I was willing to help keep 10,000 Jews who were in France from being deported to Poland.

THE PRESIDENT: That is all. You may return to the dock.

DR. KUBUSCHOK: I had three witnesses approved by the Tribunal. The witness Freiherr von Lersner could not come here at the time because of transportation difficulties. He cannot be here before the end of July. After the questioning of the defendant and considering the fact that Lersner has answered an interrogatory, I believe I can dispense with the witness. I regret this, because he is a man who was a companion of the defendant during his whole political career, a witness who would have been especially valuable because of his objectivity in these questions. He was president of the German Peace Delegation at Versailles.

THE PRESIDENT: If you have the affidavit or the interrogatory, you can put it in. We do not need any further statements about it.

DR. KUBUSCHOK: Yes.

The second witness was Count Kageneck. Since the questions which were to be asked of Kageneck have been covered in the questioning of the defendant and the cross-examination did not touch upon them, I can also dispense with this witness.

There remains only the witness Dr. Kroll, whom I now call to the stand.

[The witness Kroll took the stand.]

THE PRESIDENT: Will you state your full name, please?

HANS KROLL (Witness): Hans Kroll.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. KUBUSCHOK: Witness, what was your occupation in Ankara?

KROLL: I was the First Counsellor of the Embassy, and later Minister. I was in Ankara from the fall of 1936 until April 1943; from April 1939 until April 1943 I worked together with Ambassador Von Papen as his principal collaborator. Daily, mostly in the morning and in the afternoon, we conferred together for several hours, so that I believe I am well informed about the various phases of his activity during this period in Turkey; that is, about his activity during the war.

DR. KUBUSCHOK: For explanatory purposes I would like to say that these questions will refer mostly to the peace policy of the defendant.

Did you know Herr Von Papen before he became Ambassador in Ankara?

KROLL: No. We met in Ankara.

DR. KUBUSCHOK: Were you a member of the NSDAP?

KROLL: No.

DR. KUBUSCHOK: After taking over the position as Ambassador, Herr Von Papen came to Ankara for a short stay. What was the purpose of this visit?

KROLL: Herr Von Papen wanted, first of all, to present himself to the Turkish Government and to obtain information on the general situation.

DR. KUBUSCHOK: Did Herr Von Papen at that time, through his conduct and his statements, express his agreement with German foreign policy and, in particular, with the policy toward Poland? Or did he, as far as he was able, attempt to work against this policy?

KROLL: After the arrival of Herr Von Papen, I was, of course, interested to learn what he imagined the future development of the general situation would be and, in particular, the Polish question. I assumed, of course, that as he came from Germany he was well informed about Hitler's plans; and I was disappointed to find that he knew no more than I did, which was nothing at all.

Then we discussed the situation in detail; as far as I was able to tell, Herr Von Papen, who spoke very frankly with me about these things, distrusted Hitler's foreign policy. He was an enemy of war, a true and sincere enemy of war; and, of course, he was also an enemy of war against Poland. He was quite convinced that an agreement could be reached on the Polish question if it could only be made clear to Hitler that a conflict with Poland would of

necessity lead to a World War. He then endeavored, and I must say in very open, clear, and courageous language, to point out this view in his reports. And in his talks with the Turkish statesmen, as well as with the accredited diplomats in Ankara, he attempted to prove that, in fact, a conflict with Poland would of necessity lead to a conflict with England and France. I often told myself later that he was convinced that if everyone, Germans as well as foreigners, had spoken to Hitler in this clear manner, the war would have been avoided.

DR. KUBUSCHOK: After the outbreak of the Polish war, what was the attitude of Herr Von Papen toward the spread of the war to the Nordic States, Holland, Belgium, and finally, Russia?

KROLL: Herr Von Papen, of course, hoped that during this winter pause some agreement would be reached or at least a meeting arranged. He knew that once the action spread to the west, the war would break out in all its horror and that then it would probably be too late to talk things over. Of course, as far as possible, he looked for mediation in Turkey and he was glad and willing to consider any opportunity, such as had resulted from talks with his friend, the Dutch Minister in Ankara, Van Visser. The motive behind this offer of Visser was Holland's wish to have the war ended before spring and along with that the fighting in the west, and the goal was to be a talk between Germany and England.

DR. KUBUSCHOK: I am interested in knowing what Herr Von Papen's opinion of such a peace was. Did he think that it would be possible to achieve annexation by way of peace, or what was the purpose of this peace which he had in mind?

KROLL: I believe it is known from the previous activity of Herr Von Papen that he was a friend and believer in European understanding. He knew that this war had not begun because of a territorial problem but because of a principle; that is to say, the prevention of future one-sided aggressive wars. And so, in the restoration of the legal status before the beginning of the war, that is, in the restoration of the *status quo ante* on the basis of 1938, including the restoration of Poland and Czechoslovakia, he saw the prerequisite for instituting *pourparlers*.

He considered the second prerequisite for the successful carrying on of such *pourparlers* the restoration of confidence in the German signature, which was known to have been destroyed through Hitler's foreign policy. The only question was how this confidence could be restored. He clearly realized that the prerequisite for this was a basic reform of the regime, with the aim of making Germany a legal state once more. Finally, Herr Von Papen, posted as he was in Turkey, believed he saw the possibility of ending the war by

reaching an understanding, because Turkey was in a better position for mediation than practically any other state of equal importance in foreign politics. It enjoyed the confidence of both belligerent parties, and that is essential for arranging a *pourparler*. And so he endeavored, in all his talks with Turkish statesmen, to win Turkey over for a mediation. During all his years in Turkey that was the leitmotif of his work, namely, to bring the war to an end as soon as possible. It is a fact that he finally enjoyed the satisfaction of hearing the Turkish President, in 1942 in a big public speech before the Turkish National Assembly, offering the services of Turkey for mediation between the belligerents.

DR. KUBUSCHOK: Did you have knowledge of the efforts of Herr Von Papen to avert a spread of the war toward Turkey, contrary to the efforts of certain circles of the Axis partners around Hitler? During the war there were several crises which you might briefly mention.

KROLL: I should like to say first that Papen's activity in Turkey can be summed up in one word. He considered it his mission to make one and the same the interests of Germany, his country, and the interests of peace. That meant, in effect, that he endeavored to prevent the spreading of the war to Turkey and the Near East and thus create the prerequisite for having Turkey intervene as mediator at the proper time.

Now, as to the crises. I should like to limit myself to those cases in which Herr Von Papen had the impression that the neutrality of Turkey was endangered by the intentions of the Axis partners.

THE PRESIDENT: I think I did before draw your attention to the fact that there was no charge against Von Papen in connection with his activities at Ankara; and also, I may add, that this was a summing-up in one word, I thought.

DR. KUBUSCHOK: There are only a very few cases, Your Lordship. He will tell us about them briefly to complete the general picture.

THE PRESIDENT: The only way in which the evidence can be relevant at all is insofar as it throws light upon Von Papen's activities before he went to Ankara. That is what I pointed out to you before.

DR. KUBUSCHOK: I said the other day, Your Lordship, that the personality of a person charged with war conspiracy cannot be judged correctly if only one period of his activity is mentioned. He was at a post where he could do only negative or positive things. It is certainly not irrelevant if at least it may be presented in brief.

THE PRESIDENT: Dr. Kubuschok, this witness has been telling us for a considerable time that Papen's activities were entirely

peaceful and that they were endeavors to make Turkey mediate; and what he is doing now is simply going on with further details on the same subject, and it is over a period when, as I say, no charge is made against Von Papen at all by the Prosecution.

DR. KUBUSCHOK: If the Tribunal understands that the Defendant Von Papen actually interpreted his mission in Ankara as a peace mission, I need put no further questions to the witness. Then I come to my last questions.

What was the position of Herr Von Papen in regard to the Party, especially as to the Landesleitung in Ankara?

KROLL: On his arrival Von Papen was received with unconcealed distrust. No wonder, for it was known that he was no National Socialist. During these 4 years in Turkey I did not meet anyone who considered him a National Socialist. His relationship to the Party became worse in the course of the years, and finally it resulted in open conflict. That was in 1942, when the Landesgruppenleiter of the Party in Ankara once told his colleagues, if it rested with him he would have Herr Von Papen shot. Then he was challenged about it and corrected himself. He said he didn't say that; he only said he would have him put in a concentration camp.

DR. KUBUSCHOK: What was the attitude of Von Papen to the Jewish question?

KROLL: In repeated public speeches as well as in his actions, Herr Von Papen quite clearly opposed the anti-Jewish policy of the Party. He was acquainted with Jewish emigrants. He had Jewish doctors; he bought in Jewish stores. In short, I believe that was one of the main reasons which caused this tension between him and the Party.

DR. KUBUSCHOK: Did Herr Von Papen even employ a Jewish woman in the Embassy?

KROLL: As far as I know, yes. I believe that was the wife of his servant, his porter.

DR. KUBUSCHOK: She was employed as a telephone operator there? Frau B . . ., is that right?

KROLL: Yes.

DR. KUBUSCHOK: Do you know a Herr Posemann? Did he have any connection with the German Embassy?

KROLL: At my time, Posemann was not in the German Embassy. I recall that he had a bookstore in Ankara. He had nothing to do with the Embassy.

DR. KUBUSCHOK: What was the attitude of Herr Von Papen in the personnel question? Did he employ National Socialists in the Embassy, or what preferences did he have?

KROLL: It is well known that the Party was never quite satisfied with Von Papen's choice of workers. That was shown by the very severe consequences on 30 June and after the Anschluss. It was somewhat dangerous to be one of his first co-workers.

Of course, he was regarded with suspicion because he did not make a National Socialist command post out of the Embassy, as was done in the Balkans, and because, when he asked for personnel, he chose people who he knew were not National Socialists. I think I need only mention two names, Herr Von Haeften and Legationsrat Von Trott zu Solz, two men who I believe were executed in connection with 20 July. Of course, it was especially held against Von Papen that he opposed all efforts to remove me from my post. I do not know whether I should go into that.

DR. KUBUSCHOK: Please do, briefly.

KROLL: Repeatedly—I could really say every month—an attempt was made to have me eliminated as deputy of Von Papen. Finally when that did not do any good, since Von Papen always opposed these attempts, the Landesgruppenleiter, beating the war drum, and the Ortsgruppenleiter of Ankara and Istanbul in the spring of 1942 came to see Von Papen and officially in the name of the Party demanded that I should be removed from my post. Von Papen refused this once more but finally in 1943 the pressure of the Party became too great, especially since other sources conspired against me, and so then I was excluded.

DR. KUBUSCHOK: A final question: During the years you worked together you became well acquainted with the activity of Von Papen and his personality. Perhaps you can give us a brief picture of the defendant.

KROLL: I already said before . . .

THE PRESIDENT: No, he has already sketched it at very considerable length and we don't want it briefly reiterated.

DR. KUBUSCHOK: Then I shall dispense with this question. I have finished the examination of the witness.

SIR DAVID MAXWELL-FYFE: I have no questions, My Lord.

THE PRESIDENT: Do any of the defendants' counsel want to ask any questions? Then the witness can retire.

[The witness left the stand.]

DR. KUBUSCHOK: I only need to refer briefly to a few documents. In Document Book 1, I submit Document 24, Page 86. I refer to the note:

"An agreement was reached with the Prosecution to the effect that the fact should be accepted that the Enabling

Act of 24 March 1933 was preceded by two Enabling Acts in 1923."

I refer to Document Book 2, Document 63, an article from *The Stars and Stripes* of 27 March 1946. These are the peace efforts through Earle. The article is to supplement the interrogatory of Lersner.

THE PRESIDENT: Did you say 36?

DR. KUBUSCHOK: Number 63, Page 153.

Furthermore, I refer to Volume II...

THE PRESIDENT: One moment. This document that you just put before us is a document of 27 March 1946. What are we going to do with that? It is a newspaper article.

DR. KUBUSCHOK: It is a newspaper article on an interview with Earle. He was speaking with Lersner. To supplement the testimony of Lersner, which we do not have here, I should like to use this newspaper article. It enlarges on something which is briefly mentioned in Lersner's written testimony.

THE PRESIDENT: But you had the opportunity of getting an affidavit from Lersner or for putting what questions you wanted to Lersner, and now you are putting in a newspaper article dated 1946 whilst the Trial is going on.

DR. KUBUSCHOK: Mr. President, since I cannot hear Lersner himself because of his absence—we intended to hear him as a witness—the question in the interrogatory was answered rather briefly. To complete it...

THE PRESIDENT: What is the date of the interrogatory?

DR. KUBUSCHOK: The Lersner interrogatory is dated 15 April 1946. It is Document 93. Date of the interrogatory, 15 April 1946.

THE PRESIDENT: Well, the Tribunal doesn't think that this document ought to be admitted. Newspaper articles whilst the Trial is going on are not the sort of evidence which the Tribunal thinks it right to admit.

DR. KUBUSCHOK: In Volume III I submit Document 99, an affidavit by Schaffgotsch, Page 245. It is just being submitted, Mr. President. It is a brief affidavit concerning Papen's vain efforts in the spring of 1934 to reach Hindenburg.

Finally, as Document 100, I shall submit the appeal of the Reich Government of 1 February 1939, which was mentioned yesterday, and also an excerpt on foreign policy from Hitler's speech of 23 March. Yesterday it was referred to during the proceedings.

Furthermore, I refer to all documents in all three document books which have been submitted and ask that you take judicial notice of them.

Then I have one final request. Yesterday parts of the discussion of the affidavits of Schröder and Meissner were read into the record. I believe the Prosecution, since they have not made use of the affidavits, will be willing that these parts be stricken from the record.

THE PRESIDENT: It was Meissner's affidavit which was used to some extent, wasn't it?

SIR DAVID MAXWELL-FYFE: Yes, My Lord, it was. My Lord, I should have thought the most convenient course was that the Tribunal would take it that I have merely put the facts out of the affidavit and would not consider that the evidence of the affidavit was before them. Otherwise, I think it would be very difficult to correct the record, but of course I accept that position.

THE PRESIDENT: Yes, we think so. We will treat it as those facts having been put to the witness and the witness having answered them, without considering it as a sworn statement.

SIR DAVID MAXWELL-FYFE: Yes, My Lord, purely as my questions.

DR. KUBUSCHOK: I am now finished with the case of the Defendant Von Papen.

THE PRESIDENT: Thank you. The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: The Tribunal will sit on Saturday in open session from 10 to 1.

I call on counsel for the Defendant Speer.

DR. FLÄCHSNER: Mr. President, Gentlemen of the Tribunal: Perhaps the High Tribunal will recall the fact that when we were discussing the evidence material which I had suggested for presentation in this case I dispensed with the testimony of witnesses and stated that I would limit myself to the use of interrogatories and to the questioning of witnesses outside of the courtroom.

I had hoped I should thus be able to produce my entire evidence. However, I am not in possession of all the interrogatories I sent out. I have only received part of them. I will use those replies which are at my disposal to the best of my ability in the examination of the defendant so that a special presentation of those interrogatories and of the depositions will be superfluous. Despite everything, I hope to conduct the examination of the defendant in such a manner that in my estimation I shall be finished in a day and at the most 7 hours.

Now, with the permission of the High Tribunal I should like to call the Defendant Speer to the witness box.

THE PRESIDENT: Yes.

[The Defendant Speer took the stand.]

Will you state your full name, please?

ALBERT SPEER (Defendant): Albert Speer.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The defendant repeated the oath.]

THE PRESIDENT: Sit down.

DR. FLÄCHSNER: Herr Speer, will you please tell the Tribunal about your life up until the time you were appointed Minister?

SPEER: I was born on 19 March 1905. My grandfather and my father were successful architects. At first I wanted to study mathematics and physics; but then I took up architecture, more because of tradition than inclination. I attended the universities at Munich and Berlin; and in 1929 at the age of 24, I was the first assistant at the technical college in Berlin. At the age of 27, in 1932, I went into business for myself until 1942.

In 1934 Hitler noticed me for the first time. I became acquainted with him and from that period of time onward I exercised my architect's profession with joy and enthusiasm, for Hitler was quite fanatical on the subject of architecture; and I received many important construction contracts from him. Along with putting up a new Reich Chancellery in Berlin and various buildings on the Party Rally grounds here in Nuremberg, I was entrusted with the replanning of the cities of Berlin and Nuremberg. I had sketched buildings which would have been among the largest in the world, and the carrying through of these plans would have cost no more than 2 months of Germany's war expenditure. Through this predilection which Hitler had for architecture I had a close personal contact with him. I belonged to a circle which consisted of other artists and his personal staff. If Hitler had had any friends at all, I certainly would have been one of his close friends.

Despite the war, this peaceful construction work was carried on until December 1941, and only the winter catastrophe in Russia put an end to it. The German part of the manpower was furnished by me for the reconstruction of the destroyed railroad installations in Russia.

DR. FLÄCHSNER: The Prosecution, in Document 1435-PS, which is Exhibit USA-216, has quoted a remark from your first speech as a Minister, dated February 1942, in which you state that at that

time you had placed 10,000 prisoners of war at the disposal of the armament industry.

Mr. President, this remark may be found in my document book, on Page 4 of the English text and Page 1 of the French text.

Herr Speer, what do you have to say about this document?

SPEER: At that time in my capacity as an architect I had nothing to say as to whether these workers were to be taken into armaments or not. They were put at the disposal of the Stalag, the prisoner-of-war installation of the OKW. I took it as a matter of course that they would be put at the disposal of armaments in the larger sense.

DR. FLÄCHSNER: Herr Speer, did you ever participate in the planning and preparation of an aggressive war?

SPEER: No. Since I was active as an architect up until the year 1942, there can be no question about that whatsoever. The buildings which I constructed were completely representative of peacetime building. As an architect I used up material, manpower, and money in considerable amounts for this purpose. This material, in the last analysis, was lost to armaments.

DR. FLÄCHSNER: Were you . . .

SPEER: One moment, please.

The carrying out of these large building plans which Hitler had supported was, actually and especially psychologically, an obstacle to armament.

DR. FLÄCHSNER: The Prosecution asserts you had been a Reichsleiter.

SPEER: No, that is a mistake on the part of the Prosecution.

DR. FLÄCHSNER: You wore the Golden Party Badge. When and why did you receive it?

SPEER: I received the Golden Party Badge from Hitler in 1938. It was because I had completed the plans for a new building program in Berlin. Besides myself, five other artists received this Golden Party Badge at the same time.

DR. FLÄCHSNER: Were you a member of the Reichstag?

SPEER: In 1941 I was called into the Reichstag by Hitler, that is, outside of an election, as replacement for a member who had left the Reichstag. Hitler at that time told me that in my person he also wanted an artist represented in the Reichstag.

DR. FLÄCHSNER: Did you ever receive a donation?

SPEER: No.

DR. FLÄCHSNER: How did your activity as a Minister start?

SPEER: On 8 February 1942, my predecessor, Dr. Todt, was killed in an airplane crash. Several days later Hitler declared I was to be his successor in his many offices. At that time I was 36 years of age. Up until that time, Hitler considered the main activity of Todt to be in the building sphere, and that is why he called me to be his successor. I believe that it was a complete surprise to everyone when I was called to office as a Minister.

Immediately upon my assuming office, it could be seen that not building but the intensification of armaments was to be my main task, for the heavy losses of material in the battles in Russia during the winter of 1941-1942 was a great blow. Hitler called for considerable intensification of armament production.

DR. FLÄCHSNER: When you assumed office, did you find an office completely set up in the Reich Ministry for Arms and Munitions?

SPEER: No, Dr. Todt had neglected this function of his up until that time; and in addition, in the fall of 1941 Hitler issued a decree according to which the armament of the Army was to take second place to the armament of the Air Force. At that time he foresaw a victorious outcome of the war in Russia and had decreed that armament was to be concentrated on the imminent war against England and was to be converted to that end. Because of this unbelievable optimism of his, the rescinding of that order was postponed until January 1942; and only from that date onward—that is, during the last month of his life—did Dr. Todt start to build up his organization. Therefore I had the difficult task first of all to work myself into a completely new field; secondly, at the same time to create all organizational prerequisites for my task; and thirdly, to restore the decreasing armament production for the Army and to increase production as much as possible within the next few months. As is very well known today, I succeeded in doing that.

DR. FLÄCHSNER: What promises did you receive from Hitler about the duration of your task and about the set-up of your staff of collaborators?

SPEER: Hitler promised me that I should consider my task only as a war task and that after the war I might once more resume my profession of architect.

DR. FLÄCHSNER: At this point I should like to mention a passage from Document 1435-PS, which deals with a speech delivered by Speer on 24 February 1942, 10 days after he assumed office. This document shows that he was very reluctant about changing his profession of architect for that of Minister. I quote:

"Finally I can say for myself that my personal contribution is a very large one. Up until very recently I lived in a world of pure ideals."

In Document 1520-PS, which is Exhibit GB-156, found on Page 2 of my document book, Page 5 of the English text and Page 2 of the French and Russian texts, on 8 May 1942 Hitler stated; and I quote: "The Führer thereupon stated several times that the Reich Ministry Speer would be dissolved on the day when peace was concluded."

I should further like to submit Document Number Speer-43 which is a memorandum from Speer to Hitler, dated 20 September 1944. Mr. President, this may be found on Page 6 of the English text, Page 3 of the French and Russian texts. From this document you can see that Speer was considered hostile to the Party ("parteifremd" and "parteifeindlich") by Bormann and Goebbels because of his circle of collaborators. Speer writes in his memorandum, and I quote:

"The task which I have to fulfill is a nonpolitical one. I was content in my work as long as I personally and my work were evaluated only according to professional achievements and standards. I do not feel strong enough to carry out successfully and without hindrance the technical work to be accomplished by myself and my co-workers if it is to be measured by Party political standards."

Herr Speer, can you describe the fundamental principles according to which you built up your Ministry?

THE PRESIDENT: What exhibit number are you giving that?

DR. FLÄCHSNER: Exhibit Number 1, Mr. President.

Herr Speer, can you describe the fundamental principles which you followed in building up your Ministry?

SPEER: I personally was no expert, and I did not want to act as an expert. Therefore, I selected the best possible experts to be found in Germany as my co-workers. I believed that these men were to be found within industry itself. Therefore, I made up my Ministry of honorary industrial workers. This was done in the United States in a similar way during the war in matters of production. Professional civil servants were lacking in my Ministry, and you cannot really consider my Ministry as one set up along normal lines. In June 1944 I delivered a speech in Essen about the fundamental principles upon which I founded my Ministry and its work, to defend myself against the various attacks against my system in Party circles.

DR. FLÄCHSNER: Mr. President, I regret, but I believe that the High Tribunal is not yet in possession of my document book

containing the interrogatories. I would have been glad to point out that the statements given by witnesses Saur and Schieber in this connection are summed up in this answer. Now I shall submit . . .

THE PRESIDENT: If you will give us the references—give us the names of the witnesses; we can take notice of them afterwards. What is the name?

DR. FLÄCHSNER: The witness Saur and we are dealing with his answers to Points 4, 5, and 8 of the interrogatory. The witness Schieber gives a statement regarding this point under Figure 12 of his interrogatory.

Now I should like to submit the speech given by Speer on 9 June 1944 as Exhibit Number 2. It confirms the testimony which the defendant has made about the set-up of his Ministry by engaging honorary industrial co-workers. I shall quote it. I am sorry to say that this speech also is not contained in Your Honor's supplementary volume. I am very sorry. I will just have to read it, and I quote:

"These honorary co-workers drawn from industry . . ."

THE PRESIDENT: Dr. Flächsner, it is a little bit inconvenient to the Tribunal not to have these documents before them. You could not possibly postpone the particular documents that you have not got here until tomorrow morning? Shall we have the supplementary volume then?

DR. FLÄCHSNER: The promise was given me that it would be at my disposal by this afternoon.

THE PRESIDENT: Yes; well, then, would it be convenient to leave those parts which are contained in the supplementary volume over until tomorrow?

DR. FLÄCHSNER: In the Supplementary Volume Number 5 we find a document, very short in part, with which I shall not concern myself today. Only this one speech which I am mentioning now is . . .

THE PRESIDENT: Very well.

DR. FLÄCHSNER: I quote:

"These honorary co-workers, drawn from industry, carry the responsibility to the last detail for what is manufactured in the various enterprises and industries and how it is manufactured."

Then a few lines further down:

"Among your main tasks, next to the awarding of contracts to these industries, is to supervise the restrictions on types, the specialization of industries, involving under certain circumstances the closing-down of certain enterprises; to further rationalization from the point of view of raw

materials, construction, and production; as well as unconditional exchange of experience, without regard to patents."

From various passages of this document it can be seen clearly that Speer considered his office an improvised instrument which made use of the existing authorities of the Reich for the fulfillment of his tasks but without burdening himself with these tasks. The decree of 10 August, which is mentioned in the speech of Speer, shows that he expressly prohibited his offices from turning into administrative offices. The defendant did not want bureaucratic official methods of working in his Ministry.

THE PRESIDENT: What speech of Speer are you referring to? You said the decree of 10 August.

DR. FLÄCHSNER: It is still the same speech, Mr. President, which I just mentioned. The decree is mentioned therein.

THE PRESIDENT: I didn't get what the year was when you began. What was the year?

DR. FLÄCHSNER: The year was 1942, 10 August; and the speech was given in the year 1944. Therefore, he was referring to a decree which had been in force for some time.

Just how important it was to the defendant to have new non-bureaucratic forces in his Ministry is shown in the passage from his speech which I would like to quote now:

"Any institution which has lasted for some period of time and which exceeds a certain size has a tendency to become bureaucratic. Even if, in one of the first large attacks on Berlin, large parts of the current files of the Ministry were burned, and therefore, for some time, we were lucky enough to have unnecessary ballast taken from us, we cannot expect that occurrences of that sort will continuously bring new vigor into our work."

Herr Speer, so far as the Tribunal wishes, will you please briefly supplement these statements about the tasks of your Ministry from the technical point of view?

SPEER: I shall try to be very brief.

THE PRESIDENT: Well, you, Dr. Flächsner, you read us the speech.

DR. FLÄCHSNER: The speech, yes . . .

THE PRESIDENT: It seems to be very remote to every issue, even as it is, and why you should want to supplement it, I don't know.

DR. FLÄCHSNER: I thought it might be of interest to the High Tribunal to hear about the sphere of activity which the defendant

had in his capacity as Minister. This speech was made to experts and is, therefore, really only of interest to an expert. I assumed that the High Tribunal would wish to know just what the task of the Production Ministry of Herr Speer was. I think the Prosecution imagined its sphere of activity to be considerably greater than it actually was.

THE PRESIDENT: If you want to know what he says about the tasks of his Ministry, you can ask him. But you have just been reading his speech, and we don't want to . . .

DR. FLÄCHSNER: No, no, I do not want that either. He is just to give us briefly some of the technical tasks of his Ministry. That is what I wanted to know.

THE PRESIDENT: You don't seem to be hearing me accurately. Wouldn't it be better if you put your earphones on?

What I said was that you had read the speech and we didn't want to hear any more argument upon the speech from the defendant. If you want to ask the defendant what the tasks of his Ministry are, ask him. What you asked him was, "Do you wish to supplement the speech?"

DR. FLÄCHSNER: Herr Speer, will you please tell us what the tasks were which your Ministry had to carry out and please do not refer to the things that I mentioned in the speech.

SPEER: I believe the tasks of a production ministry are well known in all industrial states. I just wanted to summarize briefly which functions I had to concern myself with in detail in this Ministry.

For one, we had to surmount the deficiency in raw materials, metals, and steel. Then, by the introduction of assembly-line work, which is customary in the United States but was not yet current in Germany, the work was systematized; and thus machinery and space were utilized to the utmost. Also, it was necessary to amplify the production programs, for example, for fine steel, aluminum, and individual parts like ball bearings and gear wheels.

One of the most important tasks was the development of new weapons and their serial production; and then, beginning with 1943, the reparation of the damage caused by the extraordinarily sudden bombing attacks, which forced us to work with improvised means and methods.

DR. FLÄCHSNER: What was the importance of this activity in the sphere of your Ministry?

SPEER: It is to be taken as a matter of course that this sphere of activity was the most important in our country, if only because it included providing equipment for the Army. I claimed that during

the war the rest of the economy would have to be regulated according to the exigencies of armament. In times of war, at home, there are only two tasks which count: To furnish soldiers for the front, and to supply weapons.

DR. FLÄCHSNER: Why was the task of your Ministry purely a war function?

SPEER: Because during peacetime the giving of orders is normally regulated according to supply and demand, but in wartime this regulating factor is lacking.

DR. FLÄCHSNER: Therefore it was one of the main tasks of your Ministry to exercise a State control over the distribution of orders?

SPEER: Yes.

DR. FLÄCHSNER: Then, at first, you had responsibility only for armaments production for the Army; but at the end of 1944, you were responsible for the entire field of armament and war production. Can you briefly tell me the stage of this development, and how thereby the extent of your task grew?

SPEER: It would be best for me to tell you about the development by dealing with the number of workers I had.

In 1942 I took over the armaments and construction programs with altogether 2.6 million workers. In the spring of 1943 Dönitz gave me the responsibility for naval armament as well, and at this point, I had 3.2 million workers. In September of 1943, through an agreement with the Minister of Economy, Herr Funk, the production task of the Ministry of Economy was transferred to me. With that I had 12 million workers working for me.

Finally, I took over the air armament from Göring on 1 August 1944. With that the total production was marshaled under me with 14 million workers. The number of workers applies to the Greater German Reich, not including the occupied countries.

DR. FLÄCHSNER: How was it possible to have a task of that magnitude directed by a Ministry that consisted almost exclusively of honorary members, who moreover had no practical routine experience in purely administrative matters?

SPEER: The administrative sectors in the various armament offices retained their tasks. In that way, for example, in the Army, the Heereswaffenamt—the Army Ordnance Office—which contained several thousand workers, gave the orders, supervised the carrying out of these orders, and saw to it that delivery of the orders and payment were carried out in a proper manner. Only in that way did I succeed in having the entire armament production—which

amounted to 3,000 or 4,000 million marks a month—carried through with an honorary co-worker staff of 6,000 people.

DR. FLÄCHSNER: Were all armament enterprises of a Wehrmacht branch subordinate to you?

SPEER: No. There actually was a small group of enterprises which were run directly by the Wehrmacht branches with their own workers. These were excepted. They were the munition plants and similar industries, and also the enterprises of the SS.

DR. FLÄCHSNER: The Prosecution is charging you with the fact you share the responsibility for the recruiting of foreign workers and prisoners of war and for taking manpower from concentration camps. What do you say to this?

SPEER: Neither I nor the Ministry was responsible for this. The Ministry was a new establishment, which had a technical problem to deal with. It took no competence in any field away from an existing authority. The conditions of work were still handled through the old existing authorities. The Food Ministry and the various offices connected with it were responsible for the food supply, and the occupation-supervising agencies in the Reich Labor Ministry were responsible for the maintenance of safe and bearable conditions at the places of work; the Trustees of Labor, working under the Plenipotentiary for Labor Commitment, were responsible for the salaries and the quality and quantity of work done; and the Health Office of the Reich Ministry of the Interior was responsible for health conditions. The Justice Department and the Police Department were responsible for violations against labor discipline, and, finally, the German Labor Front was responsible for representing the interests of labor with the employers.

The centralizing of all of these authorities lay in the hands of the Gauleiter as Reich Defense Commissioner. The fact that the SS put itself and its concentration camp internees outside the control of the State is not a matter with which I or my Ministry was concerned.

DR. FLÄCHSNER: Your Codefendant Sauckel testified to the effect that with the carrying out of the recruiting of workers for the industries, his task was finished. Is that correct in your opinion?

SPEER: Yes, certainly, as far as the placing of workers is concerned, for one of the subjects of dissension between Sauckel and me was that the appropriate employment of workers in industry itself had to be a matter of the works manager and that this could not be influenced by the labor office. It applied however only to labor recruitment and not to the observance of labor conditions. In this connection, the office of Sauckel was partly responsible as supervising authority.

DR. FLÄCHSNER: To what extent could the works manager conform with the decrees of Sauckel as to labor conditions and so on?

SPEER: The decrees issued by Sauckel were unobjectionable, but the works managers did not always find it possible to carry through the decrees for reasons which were outside their power. The bombing attacks brought about difficulties, disorganized transportation, or destroyed living quarters. It is not possible to make the managers responsible for the observance of these decrees under circumstances which often took on catastrophic proportions after the summer of 1944. These were times of crises and it was a matter for the Reich authorities to determine just how far it was possible to carry through these decrees and it is not right to push this responsibility on the little works manager.

DR. FLÄCHSNER: How far was the factory manager responsible to your Ministry in this regard?

SPEER: Within the framework of the above-mentioned responsibility which industry enjoyed, the armament factory managers had received a semiofficial function from me. This, of course, applied only to technical tasks.

DR. FLÄCHSNER: Were there any industries making secret items which were not permitted to be inspected by the Gauleiter? I recall evidence given here where this was reported.

SPEER: There were some industries which concerned themselves with secret matters; but in such cases the works trustee of the Labor Front was represented, and he could report to the Gauleiter on conditions in the factory through the Gauobmann (chief of the Labor Front in a Gau).

DR. FLÄCHSNER: Did you approve the punishment of people who were unwilling to work?

SPEER: Yes, I considered it right that workers who violated labor discipline should be punished, but I did not demand supplementary measures in this regard. As a matter of principle, I represented the view that a satisfactory work output on the part of 14 million workers could be achieved in the long run only through the good will of the worker himself. This is a bit of experience which applies generally, causing every employer in the world to do all in his power to have his workers satisfied.

DR. FLÄCHSNER: Did you support the efforts made by Sauckel to improve the social conditions of the workers, and if so, why did you?

SPEER: Naturally I supported them, even though I did not have any jurisdiction along that line; and the same reasons which I have

just mentioned applied, for our experience showed that labor which is satisfied has much less loss in the way of material. This for me was very important, considering our deficiency in raw materials. It is obvious moreover that the better quality produced by satisfied laborers is of special significance in time of war.

DR. FLÄCHSNER: In the records of your discussions with Hitler, there are various directives made by Hitler dealing with the care and the treatment of foreign workers. Did you cause Hitler to give these directives?

SPEER: Yes.

DR. FLÄCHSNER: In this connection, I should like to submit three pieces of evidence—first of all, Document Speer-11. Mr. President, this is found on Page 10 of the English text, Page 7 of the French text. In this document, upon Speer's request in March 1942, it was put down; and I quote:

> "That the Russians under all circumstances were to receive sufficient food and that civilian Russians were not to be put behind barbed wire and be treated as prisoners of war."

As my next piece of evidence, which will be Exhibit Number 4, I would like to submit Document Number Speer-13. According to this document, in May 1943 Hitler decided, at the suggestion of Speer, that the German as well as Russian miners should receive a substantial amount of supplementary rations and it is specified there that especially the Russian prisoners of war are to receive compensation in the form of tobacco and similar items for special efforts and achievements.

The next piece of evidence is Exhibit Number Speer-5, and it is Document Number 9. Mr. President, this is found on Page 12 of the English text and Page 9 of the German text in the document book. According to this document the food supply in Italian armament plants is to be put at about the level of the German rations. In this connection it is important that Speer, at the same time, issued directives that also the families of these workers receive equivalent care.

I had other documents of this type at my disposal but in order to save the time of the translation department, I did not include them in my document book.

Herr Speer, to whom did the bonuses of the armament industry go, and what did they consist of?

SPEER: We gave out many millions of packages to armament plants. They contained additional food, chocolate, cigarettes, and so forth; and these bonuses were given in addition to all the extra food rations which were determined by the Food Ministry for those who worked longer hours or who did heavy work. In the industries,

these bonuses were given to all workers without distinction, including the foreign workers, prisoners of war, and the workers from concentration camps.

DR. FLÄCHSNER: I shall again refer to the fact that these bonuses were also given to armament workers from concentration camps later on when discussing another document.

In what form did your Ministry put its demands to the industries?

SPEER: It is important to note that the demands made of industries were only in the manner of production schedules and it was up to the industries to place their demands as to manpower, machinery, and material on the basis of these schedules.

DR. FLÄCHSNER: Was there often an unusual increase in working hours in industry and how did this happen?

SPEER: Working time should remain uniform in modern assembly-line production during the entire month. Due to the bombing attacks, delays in supplying tools and raw materials set in. As a result the number of hours of work varied from 8 to 12 a day. The average, according to our statistics, might have been 60 hours to 64 hours a week.

DR. FLÄCHSNER: What were the working hours of the factory workers who came from concentration camps?

SPEER: They were exactly the same as for all the other workers in the industry, for the workers from concentration camps were on the whole only a part of the workers employed; and these workers were not called upon to do any more work than the other workers in the factory.

DR. FLÄCHSNER: How is that shown?

SPEER: There was a demand on the part of the SS that the inmates of concentration camps be kept in one part of the factory. The supervisors consisted of German foremen and specialists. The working hours, for inherent reasons, had to be co-ordinated with those of the entire industry, for it is a known fact that there is only one rhythm of work in a given industry.

DR. FLÄCHSNER: It is shown unequivocally from two documents which I shall submit in another connection that the workers from concentration camps in army and naval armament and in the air armament branch worked on an average 60 hours per week.

Why, Herr Speer, were special KZ Camps, the so-called work camps, established next to the industries?

SPEER: The work camps were established so that long trips to the factories could be avoided and in this way permit the workers to arrive fresh and ready for work.

Furthermore, the additional food which the Food Ministry had granted for all workers, including the workers from concentration camps, would not have been received by these men if they had come directly from big concentration camps; for then this additional food would have been used up in the concentration camp. In this way, those workers who came from concentration camps received, in full measure, bonuses which were granted in the industry, such as cigarettes or additional food.

DR. FLÄCHSNER: Did you know, during your activities, that the workers from concentration camps had advantages if they worked in factories?

SPEER: Yes. My co-workers called my attention to this fact, and I also heard it when I inspected the industries. Of course, a wrong impression should not be created about the number of concentration camp inmates who worked in German industry. *In toto,* 1 percent of the labor personnel came from concentration camps.

DR. FLÄCHSNER: When you inspected establishments, did you ever see concentration camp inmates?

SPEER: Of course, when on inspection tours of industries I occasionally saw inmates of concentration camps who, however, looked well fed.

DR. FLÄCHSNER: Concerning the report which Herr Speer made about concentration camps and the treatment which the inmates received in factories, I refer to a confidential letter from the office chief Schieber to Speer, dated 7 May 1944. I submit it as Document Number Speer-44, Exhibit Number 6.

Mr. President, I am sorry, this will also be found in the second document book, which has not yet been submitted. But it would be a pity if I were not to discuss it at this time, for it fits so well into this pattern. Therefore, I should like to quote briefly from it.

The office chief Schieber writes to his Minister as follows . . .

THE PRESIDENT: Dr. Flächsner, the Tribunal thinks it would be much more helpful to them to have the document before them.

We are told that the book will be ready tomorrow afternoon, and that it will not be ready before tomorrow afternoon.

DR. FLÄCHSNER: Mr. President, I believe that I did everything possible at the time to see that the documents were put at the disposal of the translation department in good time. The difficulty must have arisen from the fact that the interrogatories did not come back in time. I assume that that is what happened.

The quotation from this document is not long, Mr. President. I believe I might as well quote from it now. Or do you wish that . . .

THE PRESIDENT: No; go on, if it is more convenient to you. I do not mind. You may go on.

DR. FLÄCHSNER: Thank you very much.

The office chief Schieber writes to his Minister:

"Considering the care which the manpower from camps received from our factory managers in spite of all the difficulties and considering the general decent and humane treatment which foreign and concentration camp laborers received, both the Jewesses and concentration camp laborers work very efficiently and do everything in order not to be sent back to the concentration camp.

"These facts really demand that we transfer still more concentration camp inmates into armament industries."

And a few lines further down:

"I have discussed this whole matter in great detail with the delegate of Obergruppenführer Pohl, Sturmbannführer Maurer, and especially pointed out that by a decentralized dividing-up of concentration camp laborers it might be possible appropriately to utilize their forces while affording them better nourishment and satisfactory lodging."

Then it says:

"Moreover, Maurer especially points out . . ."

THE PRESIDENT: You need not make such long pauses as you are making.

DR. FLÄCHSNER: "Aside from that, Maurer especially points out that Obergruppenführer Pohl constantly improved the food situation of concentration camp inmates working in factories and that by granting additional protein foods, given under constant medical supervision, a marked increase in weight was obtained and thereby better work achieved."

In another document we see that the employment of concentration camp workers in armament industries is recommended, in that advantages accrue to these workers and that for this reason concentration camp inmates are glad to work in armament industries.

I refer, in this connection, to Document 1992-PS, which may be found on Page 11 of the document book. It is Page 14 in the English text. This document shows that already in 1937 inmates of concentration camps were being employed in workshops and that this work was quite popular.

Herr Speer, what do you know about the working conditions in subterranean factories?

SPEER: The most modern equipment for the most modern weapons had been housed in subterranean factories. Since we did

not have many of these subterranean works at our disposal, we had to house in the main this latest equipment there. This equipment required perfect conditions of work—air which was dry and free from dust, good lighting facilities, big fresh air installations, so that the conditions which applied to such a subterranean factory would be about the same as those in a night shift in a regular industry.

I should like to add that contrary to the impression which has been created here in Court, these subterranean factories, almost without exception, were staffed with German workers, because we had a special interest in having these modern installations manned by the best workers which were at our disposal.

DR. FLÄCHSNER: Can you tell us about how many of these factories there were?

SPEER: It was an insignificant number at the end of the war. We were using 300,000 square meters of subterranean premises and were planning for 3,000,000 square meters.

DR. FLÄCHSNER: Herr Speer, in the year 1943 you visited the concentration camp at Mauthausen? Why did you visit this camp?

SPEER: I learned, when I inspected industries at Linz, that along the Danube, near the camp at Mauthausen, a large harbor installation and numerous railroad installations were being put up so that the paving stone coming from the quarry at Mauthausen could be transported to the Danube. This was purely a peacetime matter which I could not tolerate at all, for it violated all the decrees and directives which I had issued. I gave short notice of an impending visit, for I wanted to ascertain on the spot whether this construction work was an actual fact and request stoppage of the work. This is an example for giving directives in this field even within the economic administrative sphere of the SS. I stated on that occasion that it would be more judicious to have these workers employed during wartime in a steel plant at Linz rather than in peacetime construction.

DR. FLÄCHSNER: Will you describe the visit to the camp?

SPEER: My visit ostensibly followed the prescribed program as already described by the witness Blaha. I saw the kitchen barracks, the washroom barracks, and one group of barracks used as living quarters. These barracks were made of massive stone and were models as far as modern equipment is concerned. Since my visit had only been reported a short time in advance, in my opinion it is out of the question that big preparations could have been made before my visit. Nevertheless, the camp or the small part of the camp which I saw made a model impression of cleanliness. However, I did not see any of the workers, any of the camp inmates, since at that time they were all engaged in work. The entire inspection

lasted perhaps 45 minutes, since I had very little time at my disposal for a matter of that kind and I had inner repulsive feelings against even entering such a camp where prisoners were being kept.

DR. FLÄCHSNER: The main purpose of your visit then was to request the stoppage of the work which you considered nonessential to the war effort?

SPEER: Yes.

DR. FLÄCHSNER: On your visit were you able to learn about the working conditions in the camp?

SPEER: No, I could not do that, since no workers were to be seen in the camp and the harbor installations were so far from the street that I could not see the men who were working there.

THE PRESIDENT: The translation that came through to me was that it was against him spiritually to enter such places. Was that correct? Well, what did you say?

DR. FLÄCHSNER: No. I asked him whether on the occasion of this visit he was able to learn about the working conditions which applied in this camp. That was my question.

THE PRESIDENT: Well, did you say anything about "spiritually"?

SPEER: No.

DR. FLÄCHSNER: No.

Did you learn, on your visit at Mauthausen or on another occasion, about the cruelties which took place at this concentration camp and at other concentration camps?

SPEER: No.

DR. FLÄCHSNER: Now, I should like to conclude my questions on the utilization of workers by asking you: Did you have any interest in the fact that a healthy and sufficiently trained labor supply should be at your disposal?

SPEER: Naturally I had the utmost interest along this line even though I was not competent for this. As from 1942 we had mass production in armament, and this system with assembly-line workers demands an extraordinary large percentage of skilled workers. Because of drafting for military service, these skilled laborers had become especially important, so that any loss of a worker or the illness of a worker meant a big loss for me as well.

Since a worker needed an apprenticeship of 6 to 12 weeks and since even after this for a period of about 6 months a great amount of scrap must be allowed for—for it takes about that much time before quality work can be expected—it is evident that the care of skilled workers in industry was an added worry for us.

DR. FLÄCHSNER: The Prosecution has mentioned the so-called extermination by work. Could a change of personnel, which would have taken place through extermination by work, be tolerated at all by an industry?

SPEER: No. A change in the workers, in the way in which it was described here, cannot be borne by any industry. It is out of the question that in any German industry anything like that took place without my hearing about it; and I never heard anything of that sort.

DR. FLÄCHSNER: Herr Speer, the Prosecution asserts that you applied means of terror and brutality so that the achievements of the compulsory workers would be increased to the utmost . . .

SPEER: No.

DR. FLÄCHSNER: Just a moment. I have not finished. The Prosecution is of the opinion that you used SS and Police against recalcitrant workers and favored and recommended the use of concentration camps for such. Is that correct?

SPEER: No, not in that form, for that was against my interests. There were efforts in Germany to bring about increased productivity through very severe compulsory measures. These efforts did not meet with my approval. It is quite out of the question that 14 million workers can be forced to produce satisfactory work through coercion and terror, as the Prosecution maintains.

DR. FLÄCHSNER: In this connection, please refer to Page 7 of the English text, Page 4 of the French text. I should like to quote from Document Number Speer-43. It says there:

> "I do not believe that the second system which might be applied in our economy, the system of compulsion by plant commissars, or extensive proceedings and punishment when output is insufficient, can lead to success."

Now, Mr. President, I have come to the end of my first part.

THE PRESIDENT: The Court will adjourn.

[The Tribunal adjourned until 20 June 1946 at 1000 hours.]

ONE HUNDRED AND FIFTY-NINTH DAY

Thursday, 20 June 1946

Morning Session

THE PRESIDENT: I have an announcement to make. In the first place, supplementary witnesses will be heard at the end of the case for the defendants. Secondly, interrogatories and other documents received by that time must be offered in evidence then. Thirdly, interrogatories and other documents allowed before the end of the evidence but received at a later date will be received and considered by the Tribunal up to the end of the Trial. That is all.

[The Defendant Speer resumed the stand.]

DR. FLÄCHSNER: Yesterday we finished talking about the utilization of labor in industry, and now we shall turn to the question of how the factories were supplied with manpower; that is to say, the question of mass and special demands for laborers.

Herr Speer, you stated in your testimony of 18 October 1945 first, that you categorically demanded new laborers from Sauckel; secondly, that you knew that among these laborers there would be foreigners; thirdly, that you had known that some of these foreign workers were working in Germany against their will. Please comment on this statement.

SPEER: This voluntary statement is quite correct. During the war I was very grateful to Sauckel for every laborer whom I got through him. Many a time I held him responsible for the fact that through lack of manpower the armament industry did not achieve the results it might have, but I always emphasized the merits which accrued to him because of his activity on behalf of armaments.

DR. FLÄCHSNER: Now, when in your testimony of 18 October 1945, and at present again, you refer to manpower, do you mean all manpower in general, including German workers, foreigners from occupied countries, and foreigners from friendly or annexed states, and also prisoners of war?

SPEER: Yes. Beginning with the middle of 1943, I was at odds with Sauckel over questions of production and about the insufficient availability of reserves of German labor. But that has nothing to do with my fundamental attitude toward Sauckel's work.

DR. FLÄCHSNER: What percentage of the total number of laborers assigned was Sauckel obliged to furnish upon your demands?

SPEER: You mean of the total labor supply, not foreigners?

DR. FLÄCHSNER: Yes.

SPEER: Up to August, 1944—that is up till the time when I took over the air armament as well—perhaps 30 or 40 percent of all the workers provided. Of course, by far the majority of them were German workers. When in August 1944 I took over the air armament I had no appreciable demand for workers because the bomber attacks on the transportation system in the Reich resulted in a steady decline of armament production.

DR. FLÄCHSNER: Was your need for labor unlimited?

SPEER: No. The volume of armament production and also of our entire production with my corresponding need for labor was governed by our raw material supply.

DR. FLÄCHSNER: That means, your need was restricted by the amount of raw materials available?

SPEER: My need for labor was limited by the amount of raw materials.

DR. FLÄCHSNER: You achieved a marked increase in production figures for armament. In order to achieve this increase, did the workers employed increase proportionally?

SPEER: No. In 1944 7 times as many weapons were manufactured as in 1942, 5½ times as many armored vehicles, and 6 times as much ammunition. The number of workers in these branches was increased by only 30 percent. This success was not brought about through a greater exploitation of labor but rather through the abolition of obsolete methods of production and through an improved system of controlling the production of armament.

DR. FLÄCHSNER: What was meant by the concept "war production"—"Kriegsproduktion"?

SPEER: The concept which is frequently used here, "war production," is nothing else but the ordinary concept, production. It comprises everything which is manufactured industrially or by artisans, including the civilian needs.

DR. FLÄCHSNER: What was meant in Germany by the concept of "armaments"? What did that include?

SPEER: The concept of "armaments" was in no way restricted to that sphere which was outlined through the Geneva prisoner-of-war agreement. The modern concept of "armaments" is a much

more comprehensive one. It includes a much wider sphere of activity. There were no basic principles set down for our concept of "armaments." The characteristic of an armament factory was that as an intermediary authority, the Armament Inspectorate took care of it and watched over it. In Germany, for instance, the entire production of raw steel belonged to armament; all rolling mills, foundries and forges; the production or the manufacture of aluminum and modern synthetic materials; the chemical production of nitrogen or fuel or synthetic rubber; the production of synthetic wool; the manufacture of individual items the use of which in armament cannot be predicted at the time of their manufacture such as ball bearings, gears, valves, engine pistons, and so forth, or the production of tool machinery; the setting up of assembly lines; similarly the manufacture of motor cars and the construction of locomotives, of merchant ships, also textile factories, and factories manufacturing leather goods or wooden wares.

In the interrogatories which I sent to my witnesses, I tried to have stated what percentage of the German armament industries produced armaments as defined by the Geneva Convention, and I should like to give you the figures. My co-workers agree unanimously that between 40 and 20 percent of our armament program was concerned with the production of weapons, armored cars, planes, warships, or the general equipment which the various branches of the Armed Forces required. The bulk of the material, therefore, was not armament in the sense of the Geneva Convention. The reason for the expansion of the concept of "armament" in Germany was, besides manufacturing reasons, the preferential treatment which applied to these industries, a treatment which resulted in numerous industries clamoring to be called armament industries.

DR. FLÄCHSNER: Mr. President, in the questionnaires which have not yet been submitted to the Tribunal because the book is not yet ready, the witness Sauer under Figures 7 and 10, the witness Schieber under Figures 6 to 9, and the witness Kehrl under Figures 4 to 7, concern themselves with the definition as applied to the concept of armament.

THE PRESIDENT: What was the last name?

DR. FLÄCHSNER: Kehrl.

Herr Speer, by way of example, you know Krupp's at Essen. How far did this concern produce armament equipment in the sense of the Geneva prisoner-of-war agreement, that is, weapons, munitions, and objects which are necessary for the direct conduct of war?

SPEER: Krupp's are an excellent example of the fact that an armament concern only reserves a fraction of its production for war

equipment. Of course, I must point out the fact that especially this Krupp concern was one of those armament industries which, among others, had the smallest production of armament, on a percentage basis.

Krupp's main interest lay in mines, and in three large works which produced unprocessed and highly tempered steel. The manufacture of locomotives and products for the chemical industry were specialties of Krupp's. On the other hand, the actual armament specialty of Krupp's—the construction of armored turrets for warships, and large special guns—was not at all exploited during this war. Only in 1944 did Krupp erect the first big factory for the production of guns near Breslau. Up to that time Krupp was mainly concerned with the designing of new weapons, while for the production other firms were licensed. All in all, one can say that at Krupp's, 10 to 15 percent of the personnel turned out armament equipment in the sense of the Geneva Agreement, even though the entire works were classified as armament works.

DR. FLÄCHSNER: What did you and your Ministry have to say as to whether a factory would receive German or foreign workers?

SPEER: My Ministry had no influence in that direction at all. The need for workers was reported to my Ministry by the industries which were subordinate to me. They reported a total figure of workers needed, and there were no specifications as to whether foreign workers, prisoners of war, or German workers were wanted. This total figure was forwarded to the Plenipotentiary General for Labor. Sauckel refused to accept detailed demands, and he was quite right in this respect, for he could not issue detailed directives to the offices subordinate to him concerning the percentage of German or foreign workers which were to be allocated locally to the various factories.

The ultimate distribution of workers to the factories was taken care of by the labor offices without any intervention of my offices or agencies. Therefore, here too, we did not exert influence as to whether Germans, foreigners or prisoners of war were allocated to any factory. The factory then had to report back to us about the number of workers newly received. This report was turned in to my Ministry in a lump figure so that I could not tell whether and what number of foreign workers or prisoners of war the total figure contained. Of course, I knew that foreign workers worked on armament equipment, and I quite agreed to that.

DR. FLÄCHSNER: Mr. President, to facilitate matters for the Tribunal I would like to remark that Figures 1, 7, 8, and 17 of the questionnaire of the witness Schmelter deal with these

questions. In the questionnaire of Schieber, Numbers 10, 11, 30, and 31 deal with this point. Furthermore, in the questionnaire of Kehrl relevant material is contained in the answers to Numbers 8 and 9.

Herr Speer, who sent in the demands for manpower needed in armament to the Plenipotentiary General for the Allocation of Labor?

SPEER: The demands for workers were split up into various sectors, according to the different economic branches. There were approximately 15 different sectors which placed their demands. I placed demands for Army and Navy armament and for construction, and beginning with September of 1943, for the sectors chemistry, mining, and other production. Air armament had its special labor allocation department, and their demands were voiced by the Reich Air Ministry.

DR. FLÄCHSNER: In the questionnaires, the witness Schmelter has dealt with this matter in his answer to Question 2; the witness Schieber in his answers to Questions 2, 3, and 5; and the witness Kehrl under Questions 2 and 3.

Weren't the demands for labor for the three branches of the Armed Forces centralized in your Ministry?

SPEER: No. Of course, beginning with March 1942, I had nominally taken over the Armament Office under General Thomas from the OKW, and this Armament Office was a joint office of all three Armed Forces branches, where labor allocation problems were discussed too. Through an agreement between Göring and me it was decided that air armament, independently of me, should look after its own interests. This agreement was necessary since at first, as Minister for Army Armament, I had a biased interest and therefore did not want to make decisions regarding the demands for labor of a unit that was not subordinate to me.

DR. FLÄCHSNER: How far are you responsible for the employment of prisoners of war in armament, and here I mean armament in a restricted sense and in contradiction to the Geneva Convention?

SPEER: I did not exert my influence to have prisoners of war employed contrary to the directives given out by the OKW. I knew the point of view held by the OKW, according to which the Geneva Convention was to be strictly observed. Of course, I knew as well that these Geneva regulations did not apply to Russian prisoners of war and Italian military internees. I could not exert any influence on the allocation of prisoners of war to the individual factories. This allocation was determined by the labor offices in connection with the offices depending on the chief of Prisoner of War Affairs, the "Stalag."

DR. FLÄCHSNER: In this connection I should like to refer to the questionnaire of the witness Schmelter, to his reply to Question 14.

Herr Speer, who was the competent officer on the intermediate level under the OKW?

SPEER: The supervision of the proper allocations of prisoners of war was carried out by the Military Economy Officer (Wehrwirtschaftsoffizier) as the intermediary authority. He was incorporated in the office of the Military Area Commander who was under the jurisdiction of the Army.

DR. FLÄCHSNER: The Prosecution has submitted an affidavit by Mr. Deuss, who is an American statistics expert. This is Document 2520-PS.

According to this affidavit, 400,000 prisoners of war were employed in the production of war equipment. These figures are supposed to originate from statistics in your Ministry. Will you comment on this figure?

SPEER: The figures are well known to me through my activity as a Minister, and they are correct. This figure of 400,000 prisoners of war covers the total number of prisoners of war employed in armament production.

It is a wrong conclusion drawn in this affidavit that all these prisoners of war were connected with the production of objects of armament as specified by the Geneva Convention. Statistics concerning the number of prisoners of war employed in those industries which produced armament goods as specified in the Geneva Convention were not kept by us and, therefore, no such figure can be compiled from my documents.

Apart from that, this figure of 400,000 prisoners of war includes 200,000 or 300,000 Italian military internees, all of whom were brought into my production field at that time. This affidavit does not prove, therefore, that prisoners of war were employed in the production of armament goods as such.

DR. FLÄCHSNER: The Central Planning Board was mentioned here frequently. You were a member of this board. Can you describe in detail the origin of the Central Planning Board and its sphere of activity?

SPEER: When in 1942 I assumed my office it was imperative to centralize the allocation and distribution of various materials for the three branches of the Armed Forces, and to guarantee the proper direction of war economy for a long time to come. Up to that time this matter had been taken care of in the Ministry of Economy, and partly in the OKW. Both these agencies were much too weak to prevail against the three Armed Forces branches.

In pursuance of my proposal, in March 1942 the Central Planning Board was established by the Delegate for the Four Year Plan. Its three members, Milch, Körner, and myself, were entitled to make joint decisions only, which, however, could always be reached without any difficulty. It is obvious that through my predominant position I was the decisive factor in this Central Planning Board.

The tasks of the Central Planning Board were clearly outlined and laid down in Göring's decree, which I had drafted. To make statistics on the demands for labor or on the allocation of workers was not a matter which was laid down in this decree. This activity was not carried out systematically by the Central Planning Board despite the documents presented here. As far as the decisions regarding demands and allocation of labor were concerned, I tried to have this done by the Central Planning Board, since this would have been an essential factor in the directing of the entire economy. This, however, always met with Sauckel's refusal because he considered it as interfering with his rights.

DR. FLÄCHSNER: To this point I submit the decree of Göring regarding the establishment of a Central Planning Board under the Four Year Plan. It was published on 25 April 1942, and this shall be Document Number Speer-42, Exhibit Number 7.

Mr. President, this text may be found on Page 17 of the English document book.

The sphere of activity of the Central Planning Board . . .

THE PRESIDENT: Wait a minute. What number are you giving to it? On the document here it has got Speer Number 142.

DR. FLÄCHSNER: No, that must be a typographical error. It should be 42, Mr. President; it may be found . . .

THE PRESIDENT: What is the exhibit number?

DR. FLÄCHSNER: Exhibit Number Speer-7.

THE PRESIDENT: What does 42 mean? What is the point of putting 42 on it if its exhibit number is 7?

DR. FLÄCHSNER: Mr. President, that is the number according to which the document was admitted when we compiled the document book. However, the Exhibit Number 7 is the decisive number in this case.

THE PRESIDENT: Very well.

DR. FLÄCHSNER: It is only meant to facilitate finding it in the document book. It is on Page 17 of the English text; and I might be allowed to call the attention of the High Tribunal to Figure 3 of the decree. According to this, the Central Planning Board had to decide on all the necessary new industrial projects,

on the increase in the production of raw materials and their distribution, and also on the co-ordination of the demands on the transportation system. This decree does not provide for any regulation of the labor problem.

Herr Speer, how did it come about that, despite this, labor demands were discussed in the Central Planning Board?

SPEER: These minutes of all the 60 meetings of the Central Planning Board which took place from 1942 until 1945 are contained in the stenographic records. These 5,000 typed pages give a clear report on the tasks and the activities carried out by the Central Planning Board. It is quite obvious to any expert that there was no planning with regard to manpower allocation, for it is clear that a plan regarding labor allocation would have to be revised at least every 3 months, just as we had to do for raw materials. In fact, three to four meetings took place in the Central Planning Board which were concerned with labor allocation. These three or four discussions were held for the following reasons: In the years 1942 and 1943, that is, before I took over the management of the total production, whenever soldiers were recruited for the Armed Forces, I had reserved for myself the right to distribute the various recruitment quotas in the different sectors of production. At one meeting this distribution was effected by the Central Planning Board as a neutral committee. At this session, of course, there was a representative of the Plenipotentiary General for the Allocation of Labor, since at the same time the problem of replacements had to be dealt with. Another problem which was discussed by the Central Planning Board was the distribution of coal for the following year. Just as in England, coal was the decisive factor in our entire war economy, too. At these discussions we had to determine at the same time how the demands for labor supply for the mines could be satisfied by the Plenipotentiary General for the Allocation of Labor, because only in agreement with him could proper plans be made for the following year. From this discussions resulted on the allocation of Russian prisoners of war in mines, a matter which has been mentioned here. Furthermore, two sessions took place in which the demands put forward by all interested parties were actually discussed, and in a way which the Prosecution would like to generalize as applying to the entire activities of the Central Planning Board. These two sessions took place in February and March of 1944, and no others were held either before or after. Besides, these two sessions took place during my illness. Even at that time it was not quite clear to me why it was that just when I was ill Sauckel first complied with my wish to have the Central Planning Board included, and then later went back on his promise.

DR. FLÄCHSNER: The Prosecution have submitted various extracts dealing with sessions of the Central Planning Board.

As far as you know, are these extracts taken from the stenographic records, or are they taken from the minutes?

SPEER: They are taken from the stenographic records. Besides these stenographic records, minutes were taken on the result of the meeting. These minutes are the actual result of the meeting. No material from the actual minutes has so far been submitted by the Prosecution. The contents of the stenographic records are, of course, remarks and debates which always take place when matters of such importance are dealt with, in every war economy of every country, even when the authorities involved are not directly responsible for questions such as those dealing with labor allocation.

DR. FLÄCHSNER: Therefore, do these quotations which have been heard here concern decisions made by the Central Planning Board or by you?

SPEER: I have already answered that.

DR. FLÄCHSNER: I would like to put one more question to you. You were the Plenipotentiary for Armaments in the Four Year Plan? What about that?

SPEER: In March 1942, Göring, giving heed to my proposal, created the office of Plenipotentiary for Armaments and War Production, in the Four Year Plan, and I was appointed to that office. This was purely a matter of form. It was generally known that Göring had quarreled with my predecessor, Todt, since armament problems for the Army had not been put under his control in the Four Year Plan. In assuming this capacity as Plenipotentiary for Armaments and War Production, I had subordinated myself to Göring. In fact, the Plenipotentiary for Armaments and War Production never achieved any influence. I issued no directives whatsoever in that capacity. As Minister I possessed sufficient authority, and it was not necessary that I should use the authority which I had under the Four Year Plan.

DR. FLÄCHSNER: For the benefit of the High Tribunal, when dealing with the question of the Central Planning Board perhaps I might refer to the fact that statements were made relative to it by the witness Schieber in his questionnaire under Figures 4 and 45, and by the witness Kehrl in his questionnaire under Figure 2.

Now I shall turn to the problem of the responsibility for the number of foreign workers in general.

Herr Speer, the Prosecution charges you with coresponsibility for the entire number of foreign workers who were transported

to Germany. Your Codefendant Sauckel has testified in this connection that first of all he worked for you in this matter, so that his activity was primarily determined by your needs. Will you please comment on this?

SPEER: Of course, I expected Sauckel to meet above all the demands of war production, but it cannot be maintained that he primarily took care of my demands, for beginning with the spring of 1943 I received only part of the workers I needed. If my maximum had been met, I should have received all of them. For this I need cite but one example. During that same period some 200,000 Ukrainian women were made available for housework, and it is quite certain that I was of the opinion that they could be put to better use in armaments production. It is also clear that the German labor reserve had not been fully utilized. In January 1943 these German reserves were still ample. I was interested in having German workers—including, of course, women—and this nonutilization of German reserves also proves that I cannot be held solely responsible for covering the essential needs, that is, for demanding foreign labor.

DR. FLÄCHSNER: I should like to point out that the following witnesses have made statements in connection with this problem in their respective questionnaires: The witness Schmelter in Points 12, 13, and 16; the witness Schieber, in Point 22; the witness Rohland in Points 1 and 4; and the witness Kehrl in Point 9.

Herr Speer, if you or your office demanded workers, then of course you knew that you would receive foreign workers among them. Did you need these foreign workers?

SPEER: I needed them only in part, in view of my requirements for production. For instance, the coal mines could not get along without Russian prisoners of war. It would have been quite impossible to employ German reserves, which consisted mainly of women, in these mines. There were, furthermore, special assignments for which it was desirable to have foreign skilled labor, but the majority of the needs could be met by German workers, even German female workers. The same principle was followed in the armament industries in England and America and certainly in the Soviet Union, too.

THE PRESIDENT: Can't you go on, Dr. Flächsner? There is no need to wait.

DR. FLÄCHSNER: Yes. In my documentary evidence I shall return to this point in more detail.

Herr Speer, I should like to go back to your testimony of 18 October 1945. In it you stated several times that you knew that the workers from occupied countries were being brought to

Germany against their will. The Prosecution alleges that you approved of the use of force and of terror. Will you comment on that?

SPEER: I had no influence on the method by which workers were recruited. If the workers were being brought to Germany against their will that means, as I see it, that they were obliged by law to work for Germany. Whether such laws were justified or not, that was a matter I did not check at the time. Besides, this was no concern of mine. On the other hand, by application of force and terror I understand police measures, such as raids and arrests, and so on. I did not approve of these violent measures, which may be seen from the attitude I took in the discussion I had with Lammers on 11 July 1944. At that time I held the view that neither an increase in police forces, nor raids, nor violent measures were the proper thing. In this document I am, at the same time, referred to as one of those who expressed their objections to the violent measures which had been proposed.

THE PRESIDENT: Where is the document?

DR. FLÄCHSNER: Mr. President, that is Document 3819-PS, which the Prosecution submitted in the cross-examination of, I believe, the Defendant Keitel and of the Defendant Sauckel. I did not include it in my document book.

Herr Speer, why were you against such violent measures?

SPEER: Because through violent measures of that kind a regular allocation of manpower in the occupied countries would not have been possible in the long run. However, I wanted production to be regulated and orderly in the occupied countries. Measures of violence meant to me a loss of manpower in the occupied countries, because there was the danger that these people would in increasing numbers take to the woods so as not to have to go to Germany, and thus strengthen the lines of the resistance movements. This, in turn, led to increased acts of sabotage and that, in turn, to a decrease of production in the occupied countries.

Therefore, time and again the military commanders, and the commanders of the army groups, as well as myself, protested against large-scale measures of violence as proposed.

DR. FLÄCHSNER: Were you especially interested in the recruiting of workers from specific countries, and if so, why?

SPEER: Yes. I was especially interested in labor recruitment from France, Belgium and Holland—that is, countries in the West—and from Italy, because, beginning with the spring of 1943, the Plenipotentiary General for the Allocation of Labor had decreed that mainly workers from these regions were to be assigned for war production. On the other hand, the workers from the East

were mainly to be used for agriculture, for forestry, and for the building of railroads. This decree was repeatedly stressed to me by Sauckel, even as late as 1944.

DR. FLÄCHSNER: In this connection I should like to refer to Document 3012-PS, which is Exhibit USA-190. This document is found on Page 19 of the English text, and Page 16 of the French text of my document book. I quote from the conference of the Economic Inspectorate South in Russia. Peuckert—the delegate of Sauckel in Russia—states here, and now I quote:

> "... provisions have been made for employing workers from the East principally in agriculture and in the food economy, while the workers from the West, especially those skilled workers required by Minister Speer, are to be made available to the armament industry..."

Document 1289-PS, which is Exhibit Number RF-71, may be found on Page 42 of the English text of my document book and Page 39 of the French and German texts. Here we are concerned with a file note by Sauckel on 26 April 1944 and I quote:

> "Only by a renewed mobilization of reserves in the occupied western territories can the urgent need of German armament for skilled workers be satisfied. For this purpose the reserves from other territories are not sufficient either in quality or in quantity. They are urgently needed for the requirements of agriculture, transportation, and construction. Up to 75 percent of the workers from the West have always been allocated to armament."

THE PRESIDENT: Dr. Flächsner, speaking for myself, I don't know what the problem is that you are trying to solve, or what argument you are putting forward, in the very least. I don't know what relevance this has at all. What does it matter whether they came from the West or whether they came from the East? I understand your argument, or the defendant's argument, that the armament industry, under the Geneva Convention, does not include a variety of branches of industry which go eventually into armament, and it only relates to things which are directly concerned with munitions. But when you have placed that argument before us, what is the good of referring us to this sort of evidence?

I mean, I only want to know because I don't understand in the least what you are getting at.

DR. FLÄCHSNER: Mr. President, this is to prepare for the problem to which we are now turning, and that is the problem of the blocked or protected factories (Sperrbetriebe). By setting up these blocked factories, Speer, if I may put it that way, wanted to put an effective stop to the transfer of workers from the West to

Germany. Therefore I first have to show that up to that time his workers, the labor for his industries, mainly came from the West. I want to establish that . . .

THE PRESIDENT: Supposing he did want to stop them from coming from the West; what difference does it make?

DR. FLÄCHSNER: Mr. President, Speer is being charged with actively having taken part in the deportation of workers from the West, workers who were used in his armament industries. Now, the date is important here. Beginning with the year 1943 he followed a different policy. Before that time, as may be seen from the evidence, the workers who had come to Germany had to a large extent been voluntary workers.

THE PRESIDENT: Of course, if you can prove that they were all voluntary workers it would be extremely material, but you are not directing evidence to that at all.

DR. FLÄCHSNER: Mr. President, this is the final goal of my evidence. I should like to carry it on through, if possible, to the end.

THE PRESIDENT: I am only telling you that I don't understand what the end is.

Go on; don't wait any further.

DR. FLÄCHSNER: Herr Speer, the Plenipotentiary General for the Allocation of Labor designated Italy and the occupied western territories as the countries from which foreign laborers would mainly be recruited for armament purposes.

How far did you endorse Sauckel's measures in these countries?

SPEER: Up to the spring of 1943 I completely endorsed them. Up to that time no obvious disadvantages had resulted for me. However, beginning with the spring of 1943, workers from the West refused in ever-increasing numbers to go to Germany. That may have had something to do with our defeat at Stalingrad and with the intensified air attacks on Germany. Up to the spring of 1943, to my knowledge, the labor obligations were met with more or less good will. However, beginning with the spring of 1943, frequently only part of the workers who had been called up came to report at the recruiting places.

Therefore, approximately since June 1943, I established the so-called blocked factories through the military commanders in France. Belgium, Holland, and Italy soon followed suit in establishing these blocked industries. It is important to note that every worker employed in one of these blocked factories was automatically excluded from allocation to Germany; and any worker who was recruited for Germany was free to go into a blocked factory in his

own country without the labor allocation authorities having the possibility of taking him out of this blocked factory.

DR. FLÄCHSNER: What consequences did this have on the recruitment of laborers in the occupied western territories?

SPEER: After the establishment of the blocked factories, the labor allocation from the occupied countries in the West to Germany decreased to a fraction of what it had been. Before that between 80,000 and 100,000 workers came for instance from France to Germany every month. After the establishment of the blocked factories, this figure decreased to the insignificant number of 3,000 or 4,000 a month, as is evident from Document RF-22. It is obvious, and we have to state the facts, that the decrease in these figures was also due to the resistance movement which began to expand in the West at that time.

DR. FLÄCHSNER: Did you and your offices endorse the policies followed by Sauckel at that time?

SPEER: No. At that time the first serious difference arose about the "blocking" of these workers from labor allocation in Germany. This came about through the fact that the loss of laborers, which I had in the production in the occupied countries, was larger than the number of workers who came to Germany from the occupied countries of the West. This may be seen from Document RF-22. According to it perhaps 400,000 workers came from France to Germany in 1943, especially during the first half of the year. Industrial workers in France, however, decreased by 800,000, and the French workers in France who worked for Germany decreased by 450,000.

DR. FLÄCHSNER: Why did you demand to take over the entire German production from the Ministry of Economics in the summer of 1943?

SPEER: According to my opinion there was still a considerable latent reserve in the German production, since the German peace economy had not been converted into a war economy on a sufficiently large scale. Here was, in my opinion, next to the German women workers, the largest reserve of the German home labor supply.

DR. FLÄCHSNER: What did you undertake when the total production was handed over to you by the Ministry of Economy?

SPEER: At that time, I had already worked out the following plan. A large part of the industry in Germany produced so-called consumer goods. Consumer goods were, for instance, shoes, clothing, furniture, and other necessary articles for the Armed Forces and for the civilian requirements. In the occupied western territories, however, the industries which supplied these products were kept

idle, as the raw materials were lacking. But they nevertheless had a great potential. In carrying through this plan I deprived German industries of the raw materials which were produced in Germany, such as synthetic wool, and sent them to the West. Thereby, in the long run, a million more workers could be supplied with work in the country itself; and thus I obtained 1 million German workers for armament.

DR. FLÄCHSNER: Did you not thereby want to increase armament production or help it along in France as well?

SPEER: No. All these plans failed. Before the outbreak of war the French Government did not succeed in building up armament production in France, and I also failed, or rather my agencies failed, in this task.

DR. FLÄCHSNER: What were your intentions with this new plan? What advantages did you gain?

SPEER: I will comment on it quite briefly. Through this plan I could close down whole factories in Germany for armament; and in that way I freed not only workers, but also factory space and administrative personnel. I also saved on electricity and transportation. Apart from that, since these factories had never been of importance for the war effort they had received hardly any foreign workers; and thus I almost exclusively obtained German workers for the German production, workers, of course, who were much more valuable than any foreign workers.

DR. FLÄCHSNER: Did not such a plan entail dangers and disadvantages for the German industrial development?

SPEER: The disadvantages were considerable, since any closing down of a factory meant the taking out of machinery, and at the end of the war a reconversion to peacetime production would take at least 6 to 8 months. At that time, at a Gauleiter meeting at Posen, I said that if we wanted to be successful in this war, we would have to be those to make the greater sacrifices.

DR. FLÄCHSNER: How was this plan put into effect?

THE PRESIDENT: Dr. Flächsner, what has the Tribunal got to do with the details of these plans? What do we care whether his plans were efficient or whether they were inefficient? The only question this Tribunal has got to decide is whether they were legal in accordance with the character of international law. It does not matter to us whether his plans were good plans or bad plans, or what the details of the plans were, except insofar as they are legal or illegal.

DR. FLÄCHSNER: Yes, Mr. President.

THE PRESIDENT: It is a mere waste of our time to go into the details of these plans.

DR. FLÄCHSNER: I wanted to show that the tendencies, or rather the tendency, followed by the defendant in his labor allocation policy was to employ foreigners in their own country and to use the German reserves solely for his own purpose, that is, for armament proper. Thus everything which . . .

THE PRESIDENT: But, Dr. Flächsner, that is a question of efficiency, not of legality. What he is saying is that he had a lot of German workers, good workers, and they were producing consumer goods instead of producing armament goods. He thought it better to institute his industries so that the workers could remain in France or the other western countries.

What have we got to do with that? If they were forced to work there, it is just as illegal as if they had been brought to Germany to be forced to work. At least, that is the suggestion that is made by the Prosecution.

DR. FLÄCHSNER: Yes, but I thought and believed . . .

THE PRESIDENT: We will adjourn now.

[A recess was taken.]

THE PRESIDENT: The Tribunal will hear defendants' counsel at 2 o'clock tomorrow afternoon on the question of the apportionment of time for the defendants' counsels' speeches.

DR. FLÄCHSNER: Herr Speer, please tell us briefly how you and M. Bichelonne, the French Minister of Economy, agreed on your program; but please be concise.

SPEER: Immediately after taking over production in September 1943, I agreed with Bichelonne that a large-scale program of shifting industry from Germany to France should be put into operation, according to the system I already described. In an ensuing conference, Bichelonne stated that he was not authorized to talk about labor allocations with me, for Minister Laval had expressly forbidden him to do so. He would have to point out, he said, that a further recruitment of workers on the present scale would make it impossible to adhere to the program which we had agreed upon. I was of the same opinion. We agreed, therefore, that the entire French production, beginning with coal, right up to the finished products, should be declared as "blocked industries." In this connection both of us were perfectly aware of the fact that this would almost inhibit the allocation of workers for Germany, since, as I have already explained, every Frenchman was free to enter one of

these blocked factories once he had been called up for work in Germany. I gave Bichelonne my word that I should adhere to this principle for a protracted period, and, in spite of all difficulties which occurred, I kept my promise to him.

DR. FLÄCHSNER: Mr. President, in connection with this I should like to quote from Document R-124, which is Exhibit USA-179. It is on Page 37 of the English document book. It is a speech of Sauckel's before the Central Planning Board and has been mentioned frequently. I shall quote from it only what follows:

> "... when I came to France the next time my agencies in France stated: ... Minister Bichelonne has concluded an agreement with Minister Speer according to which only French workers are to be considered for allocations in France and none of them need go to Germany any more. This coincided with the first large-scale conference."

Herr Speer, what were the consequences of this change-over of labor allocation from Germany to France?

SPEER: I have already mentioned that. Beginning with 1 October recruiting of labor came almost to a complete standstill.

DR. FLÄCHSNER: Later on I shall comment in detail, on the strength of documents, on the effect of this Speer-Bichelonne plan and on the tendency pursued by Speer in connection with the various attempts to apply this principle. At the moment I shall therefore discontinue the questions on the subject and will confine myself to quoting from the official French document, RF-22, Page 20 of the English text of my document book, Page 17 of the German and French texts. I quote:

> "Finally a real hostility arose between Sauckel and Speer, who was commissioned with the organization of forced labor in the occupied territories."

And then a few lines further on:

> "The superiority of the former over the latter which made itself felt more and more during the ... occupation facilitated to a large degree the resistance against the removal of workers."

The text shows that the first-mentioned, the Defendant Speer, and the military commander ...

THE PRESIDENT: That is all cumulative; that's what you have been proving three or four times already.

DR. FLÄCHSNER: Very well, I shall not continue with it.

I only want to rectify a mistake, Herr Speer. It is mentioned in the document that you had something to do with organizing forced labor in France; is that true?

SPEER: No, the organization of labor in France was not under my control.

DR. FLÄCHSNER: You have already mentioned that this shifting of the labor program was not only confined to France. Will you tell me to which other countries it also applied?

SPEER: Summarizing the last question: The program was extended to Belgium, Holland, Italy, and Czechoslovakia. The entire production in these countries was also declared blocked, and the laborers in these blocked industries were given the same protection as in France, even after the meeting with Hitler on 4 January 1944, during which the new program for the West for 1944 was fixed. I adhered to this policy. The result was that during the first half of 1944, 33,000 workers came from France to Germany as compared with 500,000, proposed during that conference; and from other countries, too, only about 10 percent of the proposed workers were taken to Germany.

DR. FLÄCHSNER: What about the figures applying to workers from the Protectorate?

SPEER: Everywhere only a fraction of the numbers proposed was sent.

DR. FLÄCHSNER: A document, Number 1739-PS, Exhibit RF-10, has been submitted by the Prosecution. It is on Page 23 of the English text of my document book and is a report by Sauckel dated December 1942; also there is a document, Number 1290-PS, on Page 24 of the English text, which has also been submitted. These documents appear to show that, according to Sauckel's personal assertions, from the beginning of his activities until March inclusively there was an excess supply of labor. Is that true?

SPEER: Yes, that is true.

DR. FLÄCHSNER: Document 16-PS, Exhibit USA-168, which is on Page 25 of the English text of my document book, shows that Sauckel was not in favor of using German women in all the armament industry, but in the summer of 1942 he had several hundred thousand Ukrainian girls placed at the disposal of German households.

These three documents together show that Speer in his Ministry cannot be held responsible for the total number of workers who came to Germany.

I should also like to present another document as Exhibit Number Speer-8. Mr. President, it is given Number 02 in the document book, and it is on Page 26 of the English text. It refers to a meeting of the Central Planning Board.

THE PRESIDENT: Dr. Flächsner, you are not stating the exhibit numbers of any of these documents, so that you are not offering them properly in evidence at all. I mean you are referring now to 02, which is some numbering which we have got nothing whatever to do with.

DR. FLÄCHSNER: May I then present this document as Exhibit Number 8?

THE PRESIDENT: What about the one before? Oh, that is already in. Perhaps it would be well to submit a list afterwards, giving the proper exhibit numbers for all these documents you are referring to.

DR. FLÄCHSNER: Yes, Mr. President, I shall be glad to do that. I should like to quote—this is a remark made by Speer:

> "For this it is necessary to supply the industries with new German workers, even unskilled labor, because I cannot replace all those which we have to give up as soldiers, with foreigners. The German supply is simply becoming too scanty. Already today we are having one case of sabotage after another and we do not know their origin. Cases of sabotage will arise. The measures which will have to be taken in order to switch at least 1 million Germans over to the armament industry are extremely hard and will, in my opinion, lower the entire living standard of the upper classes. Therefore this means that, roughly speaking, we are going to be proletarians for the duration of the war, if it lasts a long time. This matter has to be faced coolly and soberly. There is no alternative."

This opinion and project of Speer, namely, to exploit ruthlessly the labor reserve within Germany, was not realized until the summer of 1944. And this was a subject for argument between Speer on one side, and Sauckel and the Gauleiter on the other. The testimony of the witnesses in the questionnaires will deal with it. To assist the Tribunal I should like to state that with Schieber, it is the answer to Question 22; with Rohland, it is the answer to 1 and 4; with Kehrl, it is answer Number 9; and in the case of Schmelter it is Questions 13 and 16. Unfortunately, I cannot quote the pages of the English book, Mr. President, because I have not yet seen it.

THE PRESIDENT: What was the document you were referring to?

DR. FLÄCHSNER: Mr. President, the filled-in questionnaires in the supplement volume of my document book, which I hope is now in the hands of the Tribunal.

THE PRESIDENT: Yes, it is.

DR. FLÄCHSNER: Besides, I should like to reserve the right to submit these documents *in toto* at the end of my examination. I am only taking the liberty of referring to the points in which the witnesses have dealt with this question.

THE PRESIDENT: Very well.

DR. FLÄCHSNER: Furthermore, we are informed about the different opinions presented by Sauckel and Speer through a conference of Speer's during a meeting of the Central Planning Board on 21 December 1943. I refer to Page 27 of the English text of my document book and it will be my Exhibit Number 9. I quote . . .

THE PRESIDENT: You don't need to quote it, Dr. Flächsner; I thought I had made it clear to you that we are not concerned with the efficiency or the inefficiency of these plans.

DR. FLÄCHSNER: Herr Speer, there is an important document submitted by the Prosecution. It is the minutes of a meeting with Hitler on 4 January 1944. It has been submitted as 1292-PS, Exhibit USA-225. I refer to Page 28 of the English text of my document book. How was this meeting arranged?

SPEER: It was called by request of Hitler.

DR. FLÄCHSNER: For what reason?

SPEER: To settle the arguments between Sauckel and myself.

DR. FLÄCHSNER: And what was Hitler's decision?

SPEER: His decision was a useless compromise, as was often the case with Hitler. These blocked factories were to be maintained, and for this purpose Sauckel was given the order to obtain 3,500,000 workers from the occupied territories. Hitler gave the strictest instructions through the High Command of the Armed Forces to the military commanders that Sauckel's request should be met by all means.

DR. FLÄCHSNER: Did you agree to this decision?

SPEER: No, not at all; for if it were executed my program of shifting industries to the West had to collapse.

DR. FLÄCHSNER: And what action did you take after that?

SPEER: Contrary to the Führer's decision during that meeting, I informed the military commander of the way I wanted it, so that in connection with the expected order from the High Command of the Armed Forces the military commander would have two interpretations of the meeting in his hands. Since the military commander was agreeable to my interpretation, it could be expected that he would follow my line of thought.

DR. FLÄCHSNER: In this connection, may I present a document which is on Page 29 of the English text of my document book,

Page 26 of the German and French texts. This is a teletype message from Speer to General Studt in Paris. It will be Exhibit Number 10. Two things appear from this letter. First, Speer wrote, and I quote:

"Gauleiter Sauckel will start negotiations with the appropriate agencies with regard to the occupied western territories, in order to achieve clarity on the manner and possibility of the execution."

THE PRESIDENT: What is the point in reading that, Dr. Flächsner?

DR. FLÄCHSNER: Mr. President, the Prosecution has submitted this document, 1292-PS, to prove . . .

THE PRESIDENT: The defendant just told us what's in the document. He has told us the substance of the whole affair. We quite understand what the difference of opinion between Sauckel and Speer was.

DR. FLÄCHSNER: This document shows the reaction on the part of the defendant, namely what he did, so that Hitler's decision, as such, would be contravened or at least weakened. In this letter the defendant said to General Studt . . .

THE PRESIDENT: Dr. Flächsner, the Tribunal has given you the clearest possible indication of the view they take about these matters of different plans and differences of view between Sauckel and Speer. Why don't you pass on to some other part of your case if there is any other part of it?

DR. FLÄCHSNER: Mr. President, I do not wish to discuss the argument between these two. I am trying to show the actions taken by Speer so as to put his point of view into practice. This does not refer to . . .

THE PRESIDENT: Yes, but that is irrelevant. As I said just now, the defendant has told us what he did. It is not necessary to read it all out to us again.

DR. FLÄCHSNER: Very well. In that case, may I go on to present a document which is on Page 30 of the English text of my document book, Page 27 of the German and French texts; Exhibit Number Speer-11. It is a letter from Speer to Sauckel dated 6 January 1944, and it is ascertained in this letter that for the French industrial firms working in France 400,000 workers should be reserved at once, and another 400,000 workers during the following months, who therefore would not be deported.

What results did these two letters have, Herr Speer, with reference to Hitler's order that 1 million workers should be taken from France to Germany?

SPEER: I should like to summarize the entire subject and say a few words about it. We had a technique of dealing with inconvenient

orders from Hitler that permitted us to by-pass them. Jodl has already said in his testimony that for his part he had developed such a technique too. And so, of course, the letters which are being submitted here are only clear to the expert as to their meaning and the results they would have to have.

From the document which is being presented now, from Sauckel's speech on 1 March 1944, Document Number R-124, it is evident, too, what the results were in regard to the labor allocation in the occupied territories. The result is clear and I have already described it here, and I think we can therefore pass to Page 49.

DR. FLÄCHSNER: Herr Speer, can you give me a description of the results of the air attacks on the occupied western territories?

SPEER: Yes. In this connection I should again like to summarize a few points. The invasion was preceded by heavy air attacks on the transportation system in the occupied western territories. As a result of that, beginning with May and June 1944, production in France was paralyzed and 1 million workers were unemployed. With that, the idea of shifting production had collapsed as far as I was concerned; and according to normal expectations of the French officials, too, the impression was general that a large-scale movement toward Germany would now set in.

I gave the order that in spite of the fact that the entire French industry was paralyzed the blocked factories should be kept up, although I knew as an expert that their rehabilitation, considering the damage to the transportation system, would not be possible in less than 9 or 12 months, even if the air attacks should cease entirely. I was, therefore, acting against my own interests here.

The French Prosecution has confirmed this in Document RF-22. The corresponding passages are indicated in the document book.

Between 19 and 22 June I had a conference with Hitler and I obtained a decree according to which the workers in the occupied territories, in spite of the difficulties of transport, had to remain on the spot no matter what happened. Seyss-Inquart has already testified that a similar decision applied to Holland. Upon my orders the workers in these blocked factories even continued to receive their wages.

DR. FLÄCHSNER: In this connection I submit Exhibit Number Speer-12. It is an extract from the Führer conference from 19 to 22 June 1944, and I beg the Tribunal to take judicial notice of it. The document is on Page 22 of the English text of my document book.

Herr Speer, you would have had to be aware of the fact that following this decision of yours at least 1 million unemployed

workers in all the western territories would be unproductive for quite a long time. How could you justify such a decision?

SPEER: I must say quite openly that this was the first decision of mine which had its inner justification in the war situation having deteriorated so disastrously. The invasion was a success. The heavy air attacks on production were showing decisive results. An early end of the war was to be forecast and all this altered the situation as far as I was concerned. The practical conclusions I drew from this situation will become apparent through various other examples which I shall put forward in the course of the Trial. Of course, Hitler was not of the same opinion during that period. On the contrary, he believed that everything ought to be done in order to utilize the last reserves of manpower.

DR. FLÄCHSNER: Please describe briefly your attitude toward the meeting of 11 July 1944, to which we have already referred once before. This was Document 3819-PS. Please be very brief.

SPEER: During this meeting of 11 July I maintained my point of view. Once again I pointed to Germany's reserves, as becomes apparent from the minutes, and I announced that the transport difficulties should not be allowed to influence production, and that the blocked factories were to be kept up in those territories. Both I and the military commanders of the occupied territories were perfectly aware of the fact that with this the well-known consequences for these blocked factories would be the same as before, that is, that the transfer of labor from the occupied western territories to Germany would be stopped.

DR. FLÄCHSNER: The French Prosecution has presented a Document Number 814, Exhibit RF-1516. It presented it during the session of 30 May, if I remember correctly. It came up during the cross-examination of your Codefendant Sauckel.

According to this order troops were to round up workers in the West. Please give a brief statement on that. So as to refresh your memory, I want to say that reference is made in this telegram to the meeting of 11 July.

SPEER: The minutes of the meeting show, as I said before, that I opposed measures of coercion. I did not see Keitel's actual order.

DR. FLÄCHSNER: Number 824 is another document submitted by the French Prosecution on the same subject. It is a letter by General Von Kluge dated 25 July 1944; Exhibit RF-515. It refers to the telegram from Keitel which has been previously mentioned. Do you know anything about it, and whether that order was ever actually carried out?

SPEER: I know that the order was not carried out. To understand the situation, it is necessary to become familiar with the

atmosphere prevailing about 20 July. At that time not every order from headquarters was carried out. As the investigations after 20 July proved, at that time in his capacity as Commander, West, Kluge was already planning negotiations with the western enemies for a capitulation and probably he made his initial attempts at that time. That, incidentally, was the reason for his suicide after the attempt of 20 July had failed. It is out of the question . . .

THE PRESIDENT: You gave the number 1824. What does that mean?

DR. FLÄCHSNER: Mr. President, Number 824 is the number which the French Prosecution has given to this document. That is the number under which it has submitted it. Unfortunately, I cannot ascertain the exhibit number. I have made inquiries, but I have not had an answer yet.

I am just given to understand that it is RF-1515. That is its exhibit number.

THE PRESIDENT: Thank you.

SPEER: It is out of the question that Field Marshal Kluge, in the military situation in which he found himself, and considering his views, should have given orders for raids and measures of coercion at that moment. The release of the Sauckel-Laval agreement, which was mentioned in this document, had no practical significance, since the blocked factories were maintained, and thus this agreement could not become effective. This was well known to the officials in France, and the best proof for the fact that the order was not carried out is Document RF-22 of the French Prosecution, which shows that in July 1944 only 3,000 workers came to Germany from France. If the military authorities had used measures of coercion, it would have been a simple matter to send a very much larger number of workers than these 3,000 from France to Germany.

DR. FLÄCHSNER: Did you use your influence to stop completely the allocation of labor from occupied territories to Germany?

SPEER: No; I must state quite frankly that although I did use my influence to reduce the recruitment of labor or to put an end to measures of coercion and raids, I did not use it to stop the allocation of labor completely.

DR. FLÄCHSNER: I shall now pass to another problem.

The Prosecution has touched upon and mentioned the Organization Todt. Can you briefly explain the tasks of the Organization Todt to the Tribunal?

SPEER: Here, again, I shall give a little summary. The tasks of the Organization Todt were exclusively technical ones, that is to say, they had to carry out technical construction work; in the East,

particularly road and rail construction, and in the West the construction of concrete dugouts which became known as the so-called Atlantic Wall. For this purpose the Organization Todt used foreign labor to a disproportionately high degree. In the West there were about 20 foreigners to 1 German worker; in Russia there were about 4 Russians to 1 German. This could only be carried out in the West if the Organization Todt could use local construction firms and their work-yards to a considerable extent. They supplied the technical staff and recruited their own workers, it being clear that these firms had no possibility to recruit by coercion. Accordingly a large number of workers of the Organization Todt were volunteers; but naturally a certain percentage always worked in the Organization Todt under the conscription system.

Here the Organization Todt has been described as part of the Armed Forces. As a technical detail it should be stated in this connection that foreign workers did not, of course, belong to it, but only German workers who naturally in occupied territories had to figure as members of the Armed Forces in some way or other. The Prosecution had a different opinion on this matter.

Apart from the Organization Todt there were certain transport units attached to my Ministry, which were working in occupied territories, and it is for a certain reason that I am anxious to state that they were on principle recruited as volunteers. The Prosecution has alleged that the Organization Todt was the comprehensive organization for all military construction work in the occupied territories. That is not the case. They only had to carry out one-quarter to one-fifth of the construction program.

In May 1944 the Organization Todt was taken over by the Reich and subsequently made responsible for some of the large-scale construction programs and for the management of the organization of the Plenipotentiary for Control of Building in the Four Year Plan. This Plenipotentiary for Control of Building distributed the contingents coming from the Central Planning Board and was responsible for other directive tasks, but he was not responsible for the carrying out and for the supervision of the construction work itself. There were various official building authorities in the Reich, and in particular the SS Building Administration had their own responsibility for the building programs which they carried out.

DR. FLÄCHSNER: The Prosecution has alleged that you had concentration camp inmates employed in the armament industry and has submitted Document R-124, Exhibit USA-179.

Mr. President, this document is on Page 47 of the English text in my document book. It is about a conference with Hitler in September 1942.

How did that conference come about, Herr Speer?

SPEER: When in February 1942 I took over the armament department of the Army there were demands for considerable increases all along the line; and to meet them it was necessary to construct numerous new factories. For this purpose Himmler offered his concentration camps both to Hitler and to me. It was his plan that some of these necessary new constructions, as well as the necessary machinery, should be housed within the concentration camps, and were to be operated there under the supervision of the SS. The chief of the armament department of the Army, Generaloberst Fromm, was against this plan, and so was I. Apart from general reasons for this, the first point was that uncontrolled arms production on the part of the SS was to be prevented. Secondly, this would certainly entail my being deprived of the technical management in these industries. For that reason when planning the large armaments extension program in the spring of 1942, I did not take into consideration these demands by the SS. Himmler went to see Hitler and the minutes of this conference, which are available here, show the objections to the wishes which Hitler put to me upon Himmler's suggestions.

DR. FLÄCHSNER: Mr. President, in this connection I should like to draw your attention to Page 44 of the German text, which is Page 47 of the English text. It is Point 36 of a Führer protocol. There it says, and I quote:

> "... beyond a small number of workers it will not be possible to organize armament production in the concentration camps ..."

THE PRESIDENT: Dr. Flächsner, the witness has just given us the substance of it, has he not?

DR. FLÄCHSNER: Herr Speer, according to this document you proposed that factories should be staffed entirely with internees from concentration camps. Did you carry that out?

SPEER: No, it was not carried out in this form because it soon became clear that it was Himmler's intention to gain influence over these industries and in some way or other he would undoubtedly have succeeded in getting these industries under his control. For that reason, as a basic principle, only part of the industrial staff consisted of internees from concentration camps, so as to counteract Himmler's efforts. And so it happened that the labor camps were attached to the armament industries. But Himmler never received his share of 5 to 8 percent of arms, which had been decided upon. This was prevented due to an agreement with the General of the Army Staff in the OKW, General Buhle. The witness will testify to this.

DR. FLÄCHSNER: May I further draw your attention to Document 1584-PS, on Page 48 of the English text in my document book. It is Exhibit USA-221, and is a letter from Himmler to Göring dated 9 March 1944. Himmler is emphasizing the fact that if his responsibility, that is to say, that of the SS, would be extended, a speeding-up and an increase in production could be expected. The accompanying letter from Pohl to Himmler shows that it was proposed to supervise and control the employment of concentration camp inmates and even to use the SS as responsible works manager. According to his experience and knowledge, it would not be sufficient merely to assign the internees to other industries. The SS, therefore, wished to supervise and control the labor employment in these industries.

This document shows something else, however; for it confirms the statement of the Defendant Speer that inmates of concentration camps were also paid premiums if they proved particularly efficient; furthermore, it shows on the last page that on an average the working hours of all internees were 240 hours per month, which would correspond to 60 working hours per week.

I also refer to a document which has already been mentioned yesterday; it is Number 44 and has already been submitted by me as Exhibit Number 6; it is in the second document book. Mr. President, that is the first book in the supplementary volume.

This document shows clearly how far the extension of the SS industries was determined by Himmler's and Pohl's ambition. The document also states, and I quote:

> "... the monthly working hours contributed by concentration camp inmates did not even amount to 8 million hours, so that most certainly not more than about 32,000 men and women from concentration camps can be working in our armaments industries. This number is constantly diminishing."

Mr. President, this sentence is on Page 90, at the bottom. You will find it there in the English text.

The letter also shows that the author computes nearly the same number of working hours as is mentioned by Pohl in his letter; namely 250 hours per month, which is approximately 63 hours per week.

Herr Speer, through this letter you learned of the fact that workers, particularly foreigners, were not returned to their old places of work when for certain acts they had become involved with the Police, but that they were taken to concentration camps. What steps did you take then?

SPEER: Here again I should like to summarize several points. I received the letter on or about 15 May in Berlin, when I returned

after my illness. Its contents greatly upset me because, after all, this is nothing more than kidnaping. I had an estimate submitted to me about the number of people thus being removed from the economic system. The round figure was 30,000 to 40,000 a month. The result was my declaration in the Central Planning Board on 22 May 1944, where I demanded that these workers, even as internees, as I called them, should be returned to their old factories at once. This remark, as such, is not logical because, naturally, the number of crimes in each individual factory was very low, so that such a measure was not practicable. Anyhow, what I wished to express by it was that the workers would have to be returned to their original places of work. This statement in the Central Planning Board has been submitted by the Prosecution.

Immediately after the meeting of the Central Planning Board I went to see Hitler, and there I had a conference on 5 June 1944. The minutes of the Führer conference are available. I stated that I would not stand for any such procedure, and I cited many arguments founded entirely on reason, since no other arguments would have been effective. Hitler declared, as the minutes show, that these workers would have to be returned to their former work at once, and that after a conference between Himmler and myself he would once again communicate this decision of his to Himmler.

DR. FLÄCHSNER: I submit Exhibit Number 13, which is an extract from the Führer conference of 3 to 5 June 1944; you will find this document on Page 92 of the document book.

SPEER: Immediately after this conference I went to see Himmler and communicated to him Hitler's decision. He told me that no such number had ever been arrested by the Police. But he promised me that he would immediately issue a decree which would correspond to Hitler's demands; namely, that the SS would no longer be permitted to detain these workers. I informed Hitler of this result, and I asked him once more to get in touch with Himmler about it. In those days I had no reason to mistrust Himmler's promise because, after all, it is not customary for Reich Ministers to distrust each other so much. But anyhow, I did not have any further complaints from my assistants concerning this affair. I must emphasize that the settling of the entire matter was not really my affair, but the information appeared so incredible to me that I intervened at once. Had I known that already 18 months before Himmler had started a very similar action, and that in this letter, which has been submitted here . . .

DR. FLÄCHSNER: Mr. President, this is Document 1063-PS, and it is Exhibit USA-219. I have reproduced it on Page 51 of the English text of my document book. That is the document to which the witness is now referring.

How far did your efforts go to get workers for the armaments industry from concentration camps?

SPEER: I wanted to make a brief statement with reference to the document.

Had I known this letter, I would never have had enough confidence in Himmler to expect that he would correctly execute his order as instructed by Hitler.

For this letter shows quite clearly that this action was to be kept secret from other offices. These other offices could only be the office of the Plenipotentiary General for the Allocation of Labor or my own office.

Finally, I want to say in connection with this problem that it was my duty as Minister for Armament to put to use as many workers as were possibly available for armaments production, or any other production. I considered it proper, therefore, that workers from concentration camps, too, should work in war production or armament industries.

The main accusation by the Prosecution, however, that I deliberately increased the number of concentration camps, or caused them to be increased, is by no means correct. On the contrary I wanted just the opposite, looking at it from my point of view of production.

DR. FLÄCHSNER: May I refer in this connection to the answers of the witness Schmelter to Numbers 9 and 35 in the questionnaire which was submitted to him, and to the answer of the witness Schieber to Number 20.

Herr Speer, Document Number R-124, Exhibit USA-179, which was submitted by the Prosecution, contains several remarks you made during the meetings of the Central Planning Board.

Mr. President, may I draw your attention to Page 53 of the English text of my document book.

Herr Speer, what do you mean to say by your remark concerning "idlers" in the meeting of 30 October 1942?

SPEER: I made the remark as reproduced by the stenographic record. Here, however, I had an opportunity to read all the shorthand notes of the Central Planning Board and I discovered that this remark was not followed up in any way and that no measures by me were demanded.

DR. FLÄCHSNER: On the same page of the document book, Mr. President, there is a statement from a meeting on 22 April 1943.

Herr Speer, what do you have to say in connection with that remark regarding Russian prisoners of war?

SPEER: It can be elucidated very briefly. This is proof of the fact that the conception "armaments" must be understood in the

way I have explained, because the two sectors from which the 90,000 Russians employed in armaments originated, according to this document, were the iron, steel, and metal industries with 29,000; and the industries constructing engines, boilers, vehicles and apparatuses of all sorts with 63,000.

DR. FLÄCHSNER: Herr Speer, the Prosecution has also mentioned a remark made by you on 25 May 1944. That, too, can be found on Page 53 of the English text of the document book. There you said at a conference with Keitel and Zeitzler that in accordance with Hitler's instructions the groups of auxiliary volunteers were to be dissolved, and that you would effect the transfer of the Russians from the rear army areas.

SPEER: Here, again, I read through the shorthand notes. It can be explained briefly. The "Hiwi" mentioned in the document are the so-called auxiliary volunteers who had joined the troops fighting in Russia. As the months went by, they took on large proportions, and during the retreat they followed along, as they would probably have been treated as traitors in their own country. These volunteers were not, however, as I desired it, put into industry, since the conference which was planned did not take place.

DR. FLÄCHSNER: Please make a brief statement concerning Sauckel's memorandum, 556-PS, which was submitted by the Prosecution, of a telephone call on 4 January 1943 which refers to labor allocation.

SPEER: After this telephone call further measures were to be taken in France to increase the number of workers available for allocation. Minutes of a Führer conference which I found recently, namely, those of the meeting of 3 to 5 January 1943, show that at that time Hitler's statement of opinion referred to increased employment of French people in France for local industry and economy.

DR. FLÄCHSNER: Mr. President, I shall submit this document later because up to now I have not yet had the opportunity to . . .

THE PRESIDENT: Can you tell the Tribunal how long you are going to be, Dr. Flächsner?

DR. FLÄCHSNER: I hope, Mr. President, that I shall be through before 5 o'clock this afternoon.

THE PRESIDENT: You will not lose sight of what I have said to you already about the relevance of the argument and evidence you have been adducing up to date?

DR. FLÄCHSNER: I will not, Mr. President.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. FLÄCHSNER: Herr Speer, this morning we stopped at a discussion of Sauckel's telephone message of 4 January 1943 regarding the matter of labor allocation. As you have already stated, the minutes of a Führer conference of 3 to 5 January, which I shall submit to the Tribunal later on, are connected with this. Will you please make a brief statement on the subject of that discussion?

SPEER: This record states that measures must be taken to raise economy in France to a higher level. It contains stern injunctions from Hitler concerning the ways and means that he contemplated using to this end. It states that acts of sabotage are to be punished with the most rigorous means and that "humanitarian muddle-headedness" is out of place.

These minutes also show that at that time I asked Hitler to transfer the management of production questions in France to me, a step which was actually taken several months later.

I mention this only for the purpose of making it clear, while I am still in a position to testify as a witness, that I did not carry out Hitler's policy of abandoning all "humanitarian muddleheadedness" in France.

My attention was drawn to one case in which 10 hostages were to be shot as a reprisal for acts of industrial sabotage committed in the Meurthe-et-Moselle district. At that time I managed to prevent the sentence from being carried out. Roechling, who was at that time in charge of iron production in the occupied western territories, is my witness in this case. That is the only case I know of where hostages were to be shot on account of sabotage in production.

I can also prove that, through a decision by Hitler dated September 1943, I was responsible for providing a supplementary meal in addition to the existing ration for factory workers employed in France. In a letter which I sent to the Plenipotentiary General for the Allocation of Labor in December 1943, I strongly urged the necessity not only of paying wages to the workers in the occupied western territories, but also of making available to them a corresponding quantity of consumer goods—a line of policy which doubtless does not accord with the policy of plundering the western regions, on which so much stress has been laid by the French Prosecution.

All three documents are in my possession and they can be produced. I only mention these facts to show that I neither approved nor followed the very harsh policy laid down by Hitler for application in France in the records of 3 to 5 January.

DR. FLÄCHSNER: I now turn to another point. Herr Speer, what did you have produced in France; that is, on the basis of your program?

SPEER: We have already discussed this at sufficient length. No armament goods were manufactured, only bottleneck parts and consumer goods.

DR. FLÄCHSNER: Very well. I merely wanted to get that clear.

The Prosecution has submitted to you minutes of a Führer conference—R-124—dated March 1944 and containing a statement that you discussed with Hitler the Reich Marshal's proposal to deliver prisoners of war to France.

What can you say to that?

SPEER: This record is dated 3 March 1944. From January until May 1944 I was seriously ill, and the discussion took place without me. A member of my staff was in charge of this discussion—a man who enjoyed the confidence of Hitler in an unusually high degree. In any case, the proposal was not carried out.

DR. FLÄCHSNER: Herr Speer, you attended the session of 30 May, at which the question was discussed of how the office of the Plenipotentiary General for the Allocation of Labor came to be established. Will you comment briefly on that point?

SPEER: I should like to say that I wanted a delegate to deal with all labor allocation problems connected with my task of military armament production. My chief concern in the allocation problem, at the beginning of my term of office, was with the Gauleiter, who carried on a policy of Gau particularism. The nonpolitical offices of the Labor Ministry could not proceed against the Gauleiter, and the result was that manpower inside Germany was frozen. I suggested to Hitler that he should appoint a Gauleiter whom I knew to this post—a man named Hanke. Göring, by the way, has already confirmed this. Hitler agreed. Two days later, Bormann made the suggestion that Sauckel be chosen. I did not know Sauckel well, but I was quite ready to accept the choice. It is quite possible that Sauckel did not know anything about the affair and that he assumed—as he was was entitled to do—that he was chosen at my suggestion.

The office of the Plenipotentiary General for the Allocation of Labor was created in the following way:

Lammers declared that he could not issue special authority for a fraction of labor allocation as that would be doubtful procedure from an administrative point of view, and for that reason the whole question of manpower would have to be put into the hands of a plenipotentiary. At first they contemplated a Führer decree. Göring

protested on the grounds that it was his task under the Four Year Plan. A compromise was made, therefore, in accordance with which Sauckel was to be the Plenipotentiary General within the framework of the Four Year Plan, although he would be appointed by Hitler.

This was a unique arrangement under the Four Year Plan. Thereby Sauckel was in effect subordinated to Hitler; and he always looked upon it in that way.

DR. FLÄCHSNER: You have heard that Sauckel, in giving his testimony on 30 May, said that Göring participated in the meetings of the Central Planning Board. Is that true?

SPEER: No, that is in no way correct. I would not have had any use for him, for after all, we had to carry out practical work.

DR. FLÄCHSNER: The Prosecution has submitted a statement by Sauckel dated 8 October 1945, according to which arrangements for his delegates to function in the occupied territories were supposed to have been made by you. Is that true?

SPEER: No. In 1941 I had not yet anything to do with armament; and even later, during the period of Sauckel's activity, I did not appoint these delegates and did not do much to promote their activities. That was a matter for Sauckel to handle; it was in his jurisdiction.

DR. FLÄCHSNER: The French Prosecution quoted from the record of Sauckel's preliminary interrogation on 27 September 1945. According to this record you gave a special order for transport trains with foreign workers.

SPEER: I believe it would be practical to deal at the same time with all the statements made by Sauckel which apply to me; that will save time.

DR. FLÄCHSNER: Please go ahead.

SPEER: Arrangements for transport trains were made by Sauckel and his staff. It is possible that air raids or a sudden change in the production program made it necessary for my office to ask for transport trains to be rerouted; but the responsibility for that always rested with the Plenipotentiary General for the Allocation of Labor.

Sauckel also testified here that after Stalingrad Goebbels and I started on the "total war effort." But that is not correct in this form. Stalingrad was in January 1943, and Goebbels started on his "total war effort" in August 1944. After Stalingrad a great reorganization program was to be carried out in Germany in order to free German labor. I myself was one of those who demanded this. Neither Goebbels nor I, however, was able to carry out this plan. A committee of three, Lammers, Keitel, and Bormann, was formed; but owing

to their lack of technical knowledge they were unable to carry out their task.

My Labor Allocation Department was further mentioned by Sauckel in his testimony. This worked as follows: Every large factory and every employer of labor had an allocation department which, naturally, came under mine. None of these departments, however, encroached in the slightest degree on Sauckel's tasks. Their sphere of activity was not very great, as may be seen from the fact that each was one of 50 or 60 departments coming under my office. If I had attached very much importance to it, it would have been one of my six or eight branch offices.

Sauckel further mentioned the Stabsleiter discussions which took place in his office. A representative of my Labor Allocation Department for Army and Navy armament and for building attended these conferences. At these meetings, which were attended by about 15 people who were in need of labor, the question of priority was settled on the basis of Sauckel's information on the state of economy generally. These were really the functions erroneously ascribed here to the Central Planning Board.

In addition it was asserted that I promoted the transport of foreign workers to Germany in April 1942 and that I was responsible for the fact that foreign workers were brought to Germany at all. That, however, is not true. I did not need to use any influence on Sauckel to attain that. In any case, it is evident from a document in my possession—the minutes of a Führer conference of 3 May 1942—that the introduction of compulsory labor in the western region was approved by the Führer at Sauckel's suggestion.

I can further quote a speech, which I delivered on 18 April 1942, showing that at that period I was still of the opinion that the German building industry, which employed approximately 1.8 million workmen, was to be discontinued to a large extent to divert the necessary labor to the production of armaments. This speech which I made to my staff, in which I explained my principles and also discussed the question of manpower, does not contain any mention of the planning of a foreign labor draft. If I had been the active instigator of these plans, surely I would have mentioned the subject in this speech.

Finally, in connection with Sauckel's testimony, I must correct the plan of the organization submitted here. It is incorrect in that the separate sectors enumerated in it are classified under various ministries. In reality these sectors of employers of labor were classified under various economic branches, independently of the ministries. They only corresponded where my own Ministry and the Air Ministry were concerned.

It is also incorrect in stating that the building industry was represented in the Ministry of Economics. That came under my jurisdiction. From 1943 on, the chemical and mining industries, both of which are listed under the Ministry of Economics, were under my jurisdiction. To my knowledge, these branches were represented through plenipotentiaries in the Four Year Plan even prior to September 1943 and stated their requirements directly to Sauckel independently of the Ministry of Economics.

This plan further is incorrect in stating that the demands for these workers from individual employers went directly to Hitler. It would have been impossible for Hitler to settle this dispute between 15 employers. As I have already said, the latter attended the Stabsleiter conferences, over which Sauckel presided.

DR. FLÄCHSNER: Herr Speer, what did you do with your documents at the end of the war?

SPEER: I felt bound to preserve my documents so that the necessary transition measures could be taken during reconstruction. I refused to allow these documents even to be sifted. They were turned over in their entirety to the Allied authorities here in Nuremberg, where I had a branch archive. I handed them over when I was still at liberty in the Flensburg zone. The Prosecution is thus in possession of all my documents to the number of several thousand, as well as all public speeches, Gauleiter speeches, and other speeches dealing with armament and industry; some 4,000 Führer decisions, 5,000 pages of stenographic records of the Central Planning Board, memoranda, and so forth. I mention this only because these documents show conclusively to what extent my task was a technical and economic one.

DR. FLÄCHSNER: In your documents, as far as you remember, did you ever make statements regarding ideology, anti-Semitism, *et cetera*?

SPEER: No; I never made any statements of the kind, either in speeches or memoranda. I assume that otherwise the Prosecution would be in a position to produce something like that.

DR. FLÄCHSNER: Herr Speer, you also figured as armament Minister on the list of members of the new Government drawn up by the men responsible for the Putsch of 20 July. Did you participate in the attempted assassination of 20 July?

SPEER: I did not participate, nor was I informed of it in advance. At that time I was against assassinating Hitler.

DR. FLÄCHSNER: Mr. President, this point is mentioned in interrogatories by the witness Kempf under Point 9 and the witness Stahl under Point 1.

[Turning to the defendant.] What was the reason why you, as the only minister from the National Socialist regime, were on the opposition list?

SPEER: At that period I was working in collaboration with Army experts of the General Staff and the commander of the Home Defense Forces. Both staffs were the nucleus of the attempt of 20 July. I had particularly close relations with Generaloberst Fromm, chief of the Home Defense Forces, and also with Generaloberst Zeitzler, the Chief of the Army General Staff. After 20 July Fromm was hanged and Zeitzler was dismissed from the Army. A close contact developed through this collaboration, and these circles recognized my technical achievements. I assumed at that time that that was why they wanted to retain me.

DR. FLÄCHSNER: So political reasons did not play any part in that connection?

SPEER: Certainly not directly. Of course, I was well known for the fact that for a long time I had spoken my mind emphatically and in public regarding the abuses which took place in Hitler's immediate circle. As I found out later, I shared the opinions of the men of 20 July in many points of principle.

DR. FLÄCHSNER: What were your relations with Hitler in regard to your work?

SPEER: My closest contact with him, in my capacity of architect, was probably during the period from 1937 to September 1939; after that, the relationship was no longer so close on account of the circumstances of the war. After I was appointed successor to Todt a closer but much more official working relationship was again established. Because of the heavy demands made upon me by my armament work, I had very little opportunity to go to headquarters. I only visited the Führer's headquarters about once in 2 or 3 weeks. My 4 months' illness in the spring of 1944 was exploited by many people interested in weakening my position, and after 20 July the fact that I had been scheduled for the Ministry undoubtedly occasioned a shock to Hitler—a fact which Bormann and Goebbels used to start an open fight against me. The details are shown by a letter which I sent to Hitler on 20 December 1944 and which has been submitted as a document.

DR. FLÄCHSNER: Were you able to carry on political discussions with Hitler?

SPEER: No, he regarded me as a purely technical minister. Attempts to discuss political or personnel problems with him always failed because of the fact that he was unapproachable. From 1944 on, he was so averse to general discussions and discussions on the war situation that I set down my ideas in memorandum form

and handed them to him. Hitler knew how to confine every man to his own specialty. He himself was therefore the only co-ordinating factor. This was far beyond his strength and also his knowledge. A unified political leadership was lacking in consequence, as was also an expert military office for making decisions.

DR. FLÄCHSNER: Then, as technical minister, do you wish to limit your responsibility to your sphere of work?

SPEER: No; I should like to say something of fundamental importance here. This war has brought an inconceivable catastrophe upon the German people, and indeed started a world catastrophe. Therefore it is my unquestionable duty to assume my share of responsibility for this disaster before the German people. This is all the more my obligation, all the more my responsibility, since the head of the Government has avoided responsibility before the German people and before the world. I, as an important member of the leadership of the Reich, therefore, share in the total responsibility, beginning with 1942. I will state my arguments in this connection in my final remarks.

DR. FLÄCHSNER: Do you assume responsibility for the affairs covered by the extensive sphere of your assignments?

SPEER: Of course, as far as it is possible according to the principles generally applied and as far as actions were taken according to my directives.

DR. FLÄCHSNER: Do you wish to refer to Führer decrees in this connection?

SPEER: No. Insofar as Hitler gave me orders and I carried them out, I assume the responsibility for them. I did not, of course, carry out all the orders which he gave me.

DR. FLÄCHSNER: Mr. President, I turn now to a second part of my evidence in the case of the defendant. This presentation is not meant to exonerate the defendant from those charges, brought against Speer by the Prosecution, which apply to his actual sphere of activity.

This part concerns itself rather with the accusations raised by the Prosecution against the defendant as a member of the so-called joint conspiracy. This second part is relatively brief and I assume that I shall be able to conclude my entire presentation of evidence within an hour.

In this matter we are concerned with Speer's activity in preventing Hitler's destructive intentions in Germany and the occupied countries and with the measures he took and the attempts he made to shorten a war which he believed already lost.

I assume that the High Tribunal will agree to my presentation.

Herr Speer, up to what time did you devote all your powers to obtaining the strongest possible armament and thus continuing the war?

SPEER: Up to the middle of January 1945.

DR. FLÄCHSNER: Had not the war been lost before that?

SPEER: From a military point of view and as far as the general situation was concerned, it was certainly lost before that. It is difficult, however, to consider a war as lost and to draw the final conclusions as regards one's own person if one is faced with unconditional surrender.

DR. FLÄCHSNER: Did not considerations arising out of the production situation, of which you were in a position to have a comprehensive view, force you to regard the war as lost long before that?

SPEER: From the armament point of view not until the autumn of 1944, for I succeeded up to that time, in spite of bombing attacks, in maintaining a constant rise in production. If I may express it in figures, this was so great that in the year 1944 I could completely re-equip 130 infantry divisions and 40 armored divisions. That involved new equipment for 2 million men. This figure would have been 30 percent higher had it not been for the bombing attacks. We reached our production peak for the entire war in August 1944 for munitions; in September 1944 for aircraft; and in December 1944 for ordnance and the new U-boats. The new weapons were to be put into use a few months later, probably in February or March of 1945. I may mention only the jet planes which had already been announced in the press, the new U-boats, the new antiaircraft installations, *et cetera*. Here too, however, bombing attacks so retarded the mass production of these new weapons—which in the last phase of the war might have changed the situation—that they could no longer be used against the enemy in large numbers. All of these attempts were fruitless, however, since from 12 May 1944 on our fuel plants became targets for concentrated attacks from the air.

This was catastrophic. 90 percent of the fuel was lost to us from that time on. The success of these attacks meant the loss of the war as far as production was concerned; for our new tanks and jet planes were of no use without fuel.

DR. FLÄCHSNER: Did you tell Hitler about the effect on production, of the bombing attacks?

SPEER: Yes, I told him of this in great detail, both orally and in writing. Between June and December 1944 I sent him 12 memoranda, all with catastrophic news.

DR. FLÄCHSNER: Mr. President, in this connection I should like to submit to the Tribunal a document, a Speer memorandum of 30 June 1944. It is reproduced on Page 56 of the English document book and will be Exhibit Number 14. I should like to quote from this. Speer writes to Hitler:

> "But in September of this year the quantities required to cover the most urgent needs of the Wehrmacht cannot possibly be supplied any longer, which means that from that time on there will be a deficiency which cannot be made good and which must lead to tragic consequences."

Speer informed Hitler in another memorandum, dated 30 August 1944, on the situation in the chemical industry and the fuel production industry. This is Page 62 of the English text, Exhibit Number 15. I quote only one sentence:

> "... so that these are shortages in important categories of those materials necessary for the conduct of modern warfare."

Herr Speer, how was it possible that you and the other coworkers of Hitler, despite your realization of the situation, still tried to do everything possible to continue the war?

SPEER: In this phase of the war Hitler deceived all of us. From the summer of 1944 on he circulated, through Ambassador Hewel of the Foreign Office, definite statements to the effect that conversation with foreign powers had been started. Generaloberst Jodl has confirmed this to me here in Court. In this way, for instance, the fact that several visits were paid to Hitler by the Japanese Ambassador was interpreted to mean that through Japan we were carrying on conversations with Moscow; or else Minister Neubacher, who was here as a witness, was reported to have initiated conversations in the Balkans with the United States; or else the former Soviet Ambassador in Berlin was alleged to have been in Stockholm for the purpose of initiating conversations.

In this way he raised hopes that, like Japan, we would start negotiations in this hopeless situation, so that the people would be saved from the worst consequences. To do this, however, it was necessary to stiffen resistance as much as possible. He deceived all of us by holding out to the military leaders false hopes in the success of diplomatic steps and by promising the political leaders fresh victories through the use of new troops and new weapons and by systematically spreading rumors to encourage the people to believe in the appearance of a miracle weapon—all for the purpose of keeping up resistance. I can prove that during this period I made continual reference in my speeches and in my letters, which I wrote to Hitler and Goebbels, as to how dishonest and disastrous I considered this policy of deceiving the people by promising them a miracle weapon.

DR. FLÄCHSNER: Herr Speer, were orders given to destroy industry in Belgium, Holland, and France?

SPEER: Yes. In case of occupation by the Allies, Hitler had ordered a far-reaching system of destruction of war industries in all these countries; according to planned preparations, coal and mineral mines, power plants, and industrial premises were to be destroyed.

DR. FLÄCHSNER: Did you take any steps to prevent the execution of these orders?

SPEER: Yes.

DR. FLÄCHSNER: And did you prevent them?

SPEER: The Commander, West was responsible for carrying out these orders, since they concerned his operational zone. But I informed him that as far as I was concerned this destruction had no sense and no purpose and that I, in my capacity of Armament Minister, did not consider this destruction necessary. Thereupon no order to destroy these things was given. By this, of course, I made myself responsible to Hitler for the fact that no destruction took place.

DR. FLÄCHSNER: When was that?

SPEER: About the beginning of July 1944.

DR. FLÄCHSNER: How could you justify your position?

SPEER: All the military leaders whom I knew said at that time that the war was bound to end in October or November, since the invasion had been successful.

I myself was of the same opinion in view of the fuel situation. This may be clearly seen from the memorandum, which I sent to Hitler on 30 August, in which I told him that in view of this development in the fuel situation no operational actions by the troops would be possible by October or November. The fact that the war lasted longer than that can be ascribed only to the standstill of the enemy offensive in 1944. This made it possible to throttle our fuel consumption and to give the Western Front new supplies of tanks and ammunition. In these circumstances I was perfectly willing to accept responsibility for abandoning the industries in the western countries to the enemy in an undamaged condition, for they could be of no use to them for at least 9 months, the transport system having been destroyed beforehand. This memorandum coincides with the protection of the unemployed workers in the blocked factories—a matter which I dealt with this morning.

DR. FLÄCHSNER: Did Hitler sanction these measures?

SPEER: He could not sanction these measures for he knew nothing about them. It was a period of such hectic activity at

headquarters that he never thought of checking up on the measures taken for destruction. Later, in January 1945, reports appeared in the French press on the rapid reconstruction of their undestroyed industries. Then, of course, serious charges were raised against me.

DR. FLÄCHSNER: The French Prosecution has submitted a document, RF-132. This is a report by the field economics officer attached to the Wehrmacht commander for the Netherlands. According to this report, a decree by the Commander, West was still in existence in September 1944. This said that destructive measures were to be taken only in the coastal towns and nowhere else, and the field economics officer for the Netherlands stated, as may be seen from the document, that the order issued by the Commander, West was obsolete and that he himself had therefore decreed on his own initiative that the industries in Holland should be destroyed. How was this possible and what did you do about it?

SPEER: As a matter of fact, some overzealous lower officials caused the basic decrees not to destroy in the West to be ignored. Our communications system for orders had been largely destroyed through bombing attacks. Seyss-Inquart had drawn my attention to the fact that destruction was to take place in Holland. He has already testified that I authorized him not to take destructive measures. This was in September 1944. In addition, in order to prevent such destruction, on 5 September 1944, acting without authorization, I directed the managers of the coal and iron production and the chief of the civilian administration in Luxembourg to prevent destruction in the Minette ore mines, in the Saar coal mines, and the coal mines of Belgium and Holland, *et cetera*. In view of the hopeless war situation at that time, I, as the person responsible for supplying electric current, continued to furnish current to the undertakings on the other side of the front so that the pump stations in the coal mines would not have to stop working, because if these pump stations had stopped the mines would have been flooded.

DR. FLÄCHSNER: In this connection, I am submitting a copy of a letter from Speer to Gauleiter Simon at Koblenz. This is Exhibit Number Speer-16, Page 57 of the English text in my document book.

Herr Speer, with regard to the other occupied countries apart from France, Belgium, and Holland, did you use your influence to prevent destruction?

SPEER: From August 1944, in the industrial installations in the Government General, the ore mines in the Balkans, the nickel works in Finland; from September 1944, in the industrial installations in Upper Italy; beginning with February 1945, in the oil fields in

Hungary and the industries of Czechoslovakia. I should like to emphasize in this connection that I was supported to a great extent by Generaloberst Jodl, who quietly tolerated this policy of non-destruction.

DR. FLÄCHSNER: What were Hitler's intentions with regard to the preservation of industry and means of existence for the German population at the beginning of September 1944, when enemy troops approached the boundaries of the Greater German Reich from all sides?

SPEER: He had absolutely no intention of preserving industry. On the contrary, he ordered the "scorched earth" policy with special application to Germany. That meant the ruthless destruction of all animate and inanimate property on the approach of the enemy. This policy was backed by Bormann, Ley, and Goebbels, while the various branches of the Wehrmacht and the competent ministries opposed it.

DR. FLÄCHSNER: Since these efforts by Speer to prevent the application of destructive measures, which had been considerably intensified, also applied to areas then considered part of the German Reich, such as Polish Upper Silesia, Alsace and Lorraine, Austria, the Protectorates of Bohemia and Moravia, I should like to have this topic admitted as part of my evidence.

Herr Speer, did the commanders of the armies in the wider German area that I have just defined have executive powers to carry out orders of destruction?

SPEER: No. As far as industries were concerned, those executive powers were vested in me. Bridges, locks, railroad installations, *et cetera,* were the affair of the Wehrmacht.

DR. FLÄCHSNER: In your measures for the protection of industry, did you differentiate between the territory of the so-called Altreich and those areas which were added after 1933?

SPEER: No. The industrial region of Upper Silesia, the remaining districts of Poland, Bohemia and Moravia, Alsace-Lorraine, and Austria, of course, were protected against destruction in the same way as the German areas. I made the necessary arrangements by personal directives on the spot—particularly in the Eastern Territories.

DR. FLÄCHSNER: What steps did you take against the scorched earth policy?

SPEER: I returned from a trip to the Western Front on 14 September 1944 and found the decree awaiting me that everything was to be destroyed ruthlessly. I immediately issued a counterdecree officially ordering all industrial installations to be spared. At that time I was very much upset about the fact that industries were

now to be destroyed in Germany in the hopeless war situation, and I was all the more upset because I thought I had succeeded in saving the industries in the occupied western territories from destruction.

DR. FLÄCHSNER: I should like to submit a document in this connection, a decree by Speer dated 14 September 1944 for the protection of industries. It is on Page 58 of the English text of my document book; Exhibit Number 17.

Herr Speer, did you succeed in getting this order carried out?

SPEER: The scorched earth policy was officially proclaimed in the *Völkischer Beobachter* at the same time in an official article by the Reich press chief, so that I realized quite clearly that my counterdecree could not be effective for any length of time. In this connection I used a method which is perhaps typical of the means employed by Hitler's immediate circle. In order to dissuade him from the scorched earth policy, I made use of the faith which he induced in all his co-workers that the lost territories would be recaptured. I made him decide between the two situations: Firstly, if these industrial areas were lost, my armament potential would sink if they were not recaptured; and secondly, if they were recaptured they would be of value to us only if we had not destroyed them.

DR. FLÄCHSNER: You thereupon addressed a letter to Bormann.

I should like to submit this letter as Exhibit Number 18, Mr. President; Page 59 of the English text of the document book. This teletype . . .

SPEER: I think we can dispense with the quotation.

DR. FLÄCHSNER: Yes. You sent this teletype message to Bormann before you discussed the contents with Hitler?

SPEER: Yes. I should like to summarize . . .

THE PRESIDENT: Would you give the French page as well so that the French members may have it?

DR. FLÄCHSNER: It is Page 56 of the French text of the document book.

SPEER: Hitler approved of the text which I suggested to him, in which I gave him the alternative of either considering the war as lost or of leaving the areas intact. For the time being there was in any case no danger, because the fronts remained stable. Hitler insisted particularly on the destruction of the Minette ore mines in France; but in this case too I was successful, as may be seen from the document, in preventing the destruction of these

mines—again by exploiting Hitler's hopes of a successful counter-attack.

DR. FLÄCHSNER: Mr. President, the document to which the defendant has just referred is an extract from the Führer decree of 18 to 20 August 1944; and I submit it as Exhibit Number Speer-19. It is reproduced in the supplement to my document book, Page 101.

Herr Speer, how did this order originate?

SPEER: I have already told you.

DR. FLÄCHSNER: The term "paralysis" frequently occurs in your document in connection with industrial installations, *et cetera.* Will you tell the Tribunal just what you mean by the use of this term?

SPEER: I can only say briefly that this concerns the removal of specific parts, which put the plant temporarily out of commission; but these parts were not destroyed; they were merely concealed.

DR. FLÄCHSNER: You emphasized a few minutes ago that up to January 1945 you tried to achieve the highest possible degree of armament. What were your reasons for giving up the idea after January 1945?

SPEER: From January 1945 onward, a very unpleasant chapter begins: The last phase of the war and the realization that Hitler had identified the fate of the German people with his own; and from March 1945 onward, the realization that Hitler intended deliberately to destroy the means of life for his own people if the war were lost. I have no intention of using my actions during that phase of the war to help me in my personal defense, but this is a matter of honor which must be defended; and for that reason I should like to tell you briefly about this period of time.

DR. FLÄCHSNER: Herr Speer, what was the production situation in the various activities under your jurisdiction at the end of January 1945?

SPEER: The fuel production had been quite inadequate since the beginning of the attacks on fuel plants in May 1944, and the situation did not improve afterwards. The bombing of our transportation centers had eliminated the Ruhr area as a source of raw material for Germany as early as November 1944; and with the successful Soviet offensive in the coal areas of Upper Silesia, most of our supply of coal from that region had been cut off since the middle of January 1945.

Thus we could calculate precisely when economy must collapse; we had reached a point at which, even if there were a complete cessation of operations on the part of the enemy, the war would

soon be lost, since the Reich, because of its lack of coal, was on the verge of an economic collapse.

DR. FLÄCHSNER: In this connection, I submit a memorandum which Hitler received from Speer on 11 December 1944, as Exhibit Speer-20. Mr. President, you will find an extract on Page 64 of the English document book, Page 61 of the German and French books. It states, and I quote:

> "In view of the whole structure of the Reich economy, it is obvious that the loss of the Rhenish-Westphalian industrial area will in the long run spell ruin for the whole German economy and the further successful prosecution of the war. This would mean, in fact, the total loss of the Ruhr territory as far as the German economy is concerned, with the exception of products manufactured locally within the sector... It is superfluous to discuss the consequence resulting for the whole German Reich if it is deprived of the Ruhr territory..."

On 15 December 1944, in connection with the Ardennes Offensive which was then imminent, Speer pointed out to Hitler in detail the consequences entailed by a possible loss of Upper Silesia.

In this connection I submit Speer's memorandum—Page 102 of the supplementary volume of my document book in the English text and the same page in the French text. This is an extract from a memorandum addressed to the Chief of the Army General Staff, dated 15 December 1944, Exhibit Number 21.

SPEER: This memorandum was addressed to Hitler as well.

DR. FLÄCHSNER: It is not necessary to quote from this memorandum. It points out that a possible loss of Upper Silesia would make fighting impossible even after a few weeks and that the Wehrmacht could in no way be supplied with armaments. A large part of Upper Silesia was actually lost shortly afterwards. On 30 January 1945, Speer again sent a memorandum to Hitler—Page 67 of the English text of the document book, Page 64 in the French text. I submit this document as Exhibit Number 22, and I quote only the following:

> "After the loss of Upper Silesia, the German armament production will no longer be in a position to cover even a fraction of the requirements of the front as regards munitions, weapons and tanks, losses on the front, and equipment needed for new formations."

By way of special emphasis, there follows this sentence—and I quote:

> "The material superiority of the enemy can therefore no longer be compensated, even by the bravery of our soldiers."

Herr Speer, what did you mean by the last sentence I quoted?

SPEER: At that time Hitler issued the slogan that in defense of the fatherland the soldiers' bravery would increase tremendously and that *vice versa* the Allied troops, after the liberation of the occupied territories, would have less will to fight. That was also the main argument employed by Goebbels and Bormann to justify the use of all means to intensify the war.

DR. FLÄCHSNER: Herr Speer, did other sources advise Hitler in the same way that you yourself did?

SPEER: In this connection I shall take several points together. Guderian, the Chief of Staff of the Army, reported to Ribbentrop at that time to tell him that the war was lost. Ribbentrop reported this to Hitler. Hitler then told Guderian and myself at the beginning of February that pessimistic statements of the nature of those contained in my memorandum or the step I had taken in regard to the Reich Minister for Foreign Affairs would in future be considered as high treason and punished accordingly. In addition, some days later, in a situation conference, he forbade his other close collaborators to make any statements about the hopelessness of the situation. Anyone who disobeyed would be shot without regard for position or rank and his family would be arrested.

The statements which Guderian and I made to Hitler about the hopelessness of the war situation had precisely the opposite effect from that which we desired. Early in February, a few days before the beginning of the Yalta Conference, Hitler sent for his press expert and instructed him, in my presence, to announce in the most uncompromising terms and in the entire German press, the intention of Germany never to capitulate. He declared at the same time that he was doing this so that the German people should in no case receive any offer from the enemy. The language used would have to be so strong that enemy statesmen would lose all desire to drive a wedge between himself and the German people.

At the same time Hitler once again proclaimed to the German people the slogan "Victory or Destruction." All these events took place at a time when it should have been clear to him and every intelligent member of his circle that the only thing that could happen was destruction.

At a Gauleiter meeting in the summer of 1944 Hitler had already stated—and Schirach is my witness for this—that if the German people were to be defeated in the struggle it must have been too weak, it had failed to prove its mettle before history and was destined only to destruction. Now, in the hopeless situation existing in January and February 1945, Hitler made remarks which showed that these earlier statements had not been mere flowers of rhetoric. During this period he attributed the outcome of the war in an increasing degree to the failure of the German people, but he never

blamed himself. He criticized severely this alleged failure of our people who made so many brave sacrifices in this war.

DR. FLÄCHSNER: Generaloberst Jodl has already testified before this Court that both Hitler and his co-workers saw quite clearly the hopelessness of the military and economic situation. Was no unified action taken by some of Hitler's closer advisers in this hopeless situation to demand the termination of war?

SPEER: No. No unified action was taken by the leading men in Hitler's circle. A step like this was quite impossible, for these men considered themselves either as pure specialists or else as people whose job it was to receive orders—or else they resigned themselves to the situation. No one took over the leadership in this situation for the purpose of bringing about at least a discussion with Hitler on the possibility of avoiding further sacrifices.

On the other side there was an influential group which tried, with all the means at their disposal, to intensify the struggle. That group consisted of Goebbels, Bormann, and Ley, and, as we have said, Fegelein and Burgsdorff. This group was also behind the move to induce Hitler to withdraw from the Geneva Convention. At the beginning of February Dr. Goebbels handed to Hitler a very sharp memorandum demanding our withdrawal from the Geneva Convention. Hitler had already agreed to this proposal, as Naumann, who was State Secretary to Goebbels, told me. This step meant that the struggle was to be carried on with all available means and without regard for international agreements. This was the sense of the memorandum addressed by Goebbels to Hitler.

It must be said that this intention of Hitler and Goebbels failed on account of the unanimous resistance offered by the military leaders, as Naumann also told me later.

DR. FLÄCHSNER: Herr Speer, the witness Stahl said in his written interrogatory that about the middle of February 1945 you had demanded from him a supply of the new poison gas in order to assassinate Hitler, Bormann, and Goebbels. Why did you intend to do this then?

SPEER: I thought there was no other way out. In my despair I wanted to take this step as it had become obvious to me since the beginning of February that Hitler intended to go on with the war at all costs, ruthlessly and without consideration for the German people. It was obvious to me that in the loss of the war he confused his own fate with that of the German people and that in his own end he saw the end of the German people as well. It was also obvious that the war was lost so completely that even unconditional surrender would have to be accepted.

DR. FLÄCHSNER: Did you mean to carry through this assassination yourself, and why was your plan not realized?

SPEER: I do not wish to testify to the details here. I could only carry it through personally because from 20 July only a limited circle still had access to Hitler. I met with various technical difficulties . . .

THE PRESIDENT: The Tribunal would like to hear the particulars, but will hear them after the adjournment.

[A recess was taken.]

DR. FLÄCHSNER: Herr Speer, will you tell the Tribunal what circumstances hindered you in your undertaking?

SPEER: I am most unwilling to describe the details because there is always something repellent about such matters. I do it only because it is the Tribunal's wish.

DR. FLÄCHSNER: Please, continue.

SPEER: In those days Hitler, after the military situation conference, often had conversations in his shelter with Ley, Goebbels, and Bormann, who were particularly close to him then because they supported and co-operated in his radical course of action. Since 20 July it was no longer possible even for Hitler's closest associates to enter this shelter without their pockets and briefcases being examined by the SS for explosives. As an architect I knew this shelter intimately. It had an air-conditioning plant similar to the one installed in this courtroom.

It would not be difficult to introduce the gas into the ventilator of the air-conditioning plant, which was in the garden of the Reich Chancellery. It was then bound to circulate through the entire shelter in a very short time. Thereupon, in the middle of February 1945, I sent for Stahl, the head of my main department "Munitions," with whom I had particularly close relations, since I had worked in close co-operation with him during the destructions. I frankly told him of my intention, as his testimony shows. I asked him to procure this new poison gas for me from the munitions production. He inquired of one of his associates, Oberstleutnant Soika of the armament office of the Army, on how to get hold of this poison gas; it turned out that this new poison gas was only effective when made to explode, as the high temperature necessary for the formation of gas would then be reached. I am not sure whether I am going too much into detail.

An explosion was not possible, however, as this air-conditioning plant was made of thin sheets of tin, which would have been torn to pieces by the explosion. Thereupon I had conferences with Hänschel, the chief engineer of the Chancellery, starting in the middle of

March 1945. By these discussions I managed to arrange that the antigas filter should no longer be switched on continuously. In this way I would have been able to use the ordinary type of gas. Naturally, Hänschel had no knowledge of the purpose for which I was conducting the talks with him. When the time came, I inspected the ventilator shaft in the garden of the Chancellery along with Hänschel; and there I discovered that on Hitler's personal order this ventilator had recently been surrounded by a chimney 4 meters high. That can still be ascertained today. Due to this it was no longer possible to carry out my plan.

DR. FLÄCHSNER: I shall now come to another problem. Herr Speer, you have heard the testimony of the witnesses Riecke and Milch in this courtroom; and they have already testified to your activities after the middle of February 1945, which you undertook in order to secure the food position. What do you yourself have to say in regard to your work in that direction?

SPEER: I can say quite briefly that the preferential food supplies which I finally put into effect were arranged at the time for the purpose of planned reconversion from war to peace. This was at the expense of armament, which I personally represented. The tremendous number of measures which we introduced would be too extensive to describe here. All of these decrees are still available. It was a question of arranging, contrary to the official policy, that shortly before their occupation large towns should be sufficiently supplied with food and of taking every step to insure that, despite the catastrophe in transportation, the 1945 crop should be insured by sending the seed in good time, which was a burning problem just then. Had the seeds arrived a few weeks too late, then the crops would have been extremely bad. These measures had, of course, a direct, disadvantageous effect on armament production which cannot be measured. But at any rate, armaments were only able to maintain production through reserves until the middle of March, after which there was no armament production worth mentioning. This was due to the fact that we had only 20 to 30 percent of the transportation capacity at our disposal, which necessitated preference for food transports over armaments. Therefore transportation of armaments was, practically speaking, out of the question.

DR. FLÄCHSNER: Was it possible to carry out such measures, which were openly against the official war plans of "Resistance to the Last," on a large scale? Were there any people at all who were prepared to approve such measures as you suggested and to put them into practice?

SPEER: All these measures were not so difficult; and they were not so dangerous, as one might perhaps imagine, because in those

days—after January 1945—any reasonable measure could be carried out in Germany against the official policy. Any reasonable man welcomed such measures and was satisfied if anyone would assume responsibility for them. All of these conferences took place among a large circle of specialists. Every one of these participants knew the meaning of these orders without its ever being said. During those days I also had close contacts with reference to other similar measures with the State Secretaries of the Ministries of Transport, of Food, of Propaganda, and later even with the State Secretary of the Party Chancellery, that is, Bormann himself. They were all old Party members and in spite of that they did their duty to the nation at that time differently from the way in which many leading men in the Party were doing it. I kept them currently informed—in spite of Hitler's prohibition—of the developments in the military situation, and in that manner there was much that we could do jointly to stop the insane orders of those days.

DR. FLÄCHSNER: In which sectors did you see a danger for the bulk of the German people through the continuation of the war?

SPEER: By the middle of March 1945 the enemy troops were once more on the move. It was absolutely clear by then that quite soon those territories which had not yet been occupied would be occupied. That included the territories of Polish Upper Silesia and others outside the borders of the old Reich. The ordered destruction of all bridges during retreat was actually the greatest danger, because a bridge blown up by engineers is much more difficult to repair than a bridge which has been destroyed by an air attack. A planned destruction of bridges amounts to the destruction of the entire life of a modern state.

In addition, beginning with the end of January, radical circles in the Party were making demands for the destruction of industry; and it was also Hitler's opinion that this should be so. In February 1945 therefore I stopped production and delivery of the so-called industrial dynamiting materials. The intention was that the stocks of explosives in the mines and in private possession should be diminished. As a witness of mine has testified, these orders were actually carried out. In the middle of March Guderian and I tried once more to stop the ordered destruction of bridges or to reduce it to a minimum. An order was submitted to Hitler which he refused bluntly, on the contrary demanding intensified orders for the destruction of bridges. Simultaneously, on 18 March 1945, he had eight officers shot because they had failed to do their duty in connection with the destruction of a bridge. He announced this fact in the Armed Forces bulletin so that it should serve as a warning for future cases. Thus it was extremely difficult to disobey orders for the destruction of bridges. In spite of this existing prohibition

I sent a new memorandum to Hitler on 18 March 1945, the contents of which were very clear and in which I did not allow him any further excuses for the measures he had planned. The memorandum was brought to the attention of numerous of his associates.

DR. FLÄCHSNER: The Tribunal will find extracts from that memorandum on Page 69 of the English text of the document book (Exhibit Speer 23).

Will you continue, please?

SPEER: I shall quote something more from that memorandum; on Page 69, Mr. President:

> "The enemy air force has concentrated further on traffic installations. Economic transportation has thereby been considerably reduced . . . In 4 to 8 weeks the final collapse of German economy must therefore be expected with certainty . . . After that collapse, the war cannot even be continued militarily . . . We at the head have the duty to help the nation in the difficult times which must be expected. In this connection we must soberly, and without regard for our fate, ask ourselves the question as to how this can be done even in the more remote future. If the opponent wishes to destroy the nation and the basis of its existence, then he must do the job himself. We must do everything to maintain, even if perhaps in a most primitive manner, a basis of existence for the nation to the last."

Then there follow a few of my demands, and I shall summarize them briefly. I quote:

> "It must be insured that, if the battle advances farther into the territory of the Reich, nobody has the right to destroy industrial plants, coal mines, electric plants, and other supply facilities, as well as traffic facilities and inland shipping routes, *et cetera*. The blowing-up of bridges to the extent which has been planned would mean that traffic facilities would be more thoroughly destroyed than the air attacks of the last years have been able to achieve. Their destruction means the removal of any further possibilities of existence for the German nation."

Then, I shall quote briefly the conclusion of the memorandum:

> "We have no right, at this stage of the war, to carry out destructions on our part which might affect the life of the people. If the enemies wish to destroy this nation, which has fought with unique bravery, then this historical shame shall rest exclusively upon them. We have the obligation of leaving to the nation all possibilities which, in the more

remote future, might be able to insure for it a new reconstruction."

This expressed clearly enough something which Hitler must know in any case, because there was no need for much economic insight to realize the results of such destruction for the future of the nation.

On the occasion of the handing over of the memorandum Hitler knew of the contents, since I had discussed it with some of his associates. Therefore his statements are typical of his attitude toward this basic question.

I would not have raised the severe accusation which I made here by saying that he wanted to draw Germany into the abyss with him, if I had not confirmed his statements in that respect in the letter of 29 March 1945.

THE PRESIDENT: Are you meaning May or March?

SPEER: March 1945, Mr. President.

DR. FLÄCHSNER: Mr. President, you will find this document on Page 75 of the English text of the document book, and it is Page 72 in the French text. I submit it as Exhibit Number 24. It is Speer's letter to Hitler dated 29 March 1945.

Will you continue, please?

THE PRESIDENT: Ought you not to read this letter?

DR. FLÄCHSNER: The defendant wishes to read it himself.

Will you read it?

SPEER: I quote:

"When on 18 March I transmitted my letter to you, I was of the firm conviction that the conclusions which I had drawn from the present situation for the maintenance of our national power would find your unconditional approval, because you yourself had once determined that it was the task of the Government to preserve a nation from a heroic end if the war should be lost.

"However, during the evening you made declarations to me, the tenor of which, unless I misunderstood you, was clearly as follows: If the war were lost, the nation would also perish. This fate was inevitable. There was no necessity to take into consideration the basis which the people would need to continue a most primitive existence. On the contrary, it would be better to destroy these things ourselves, because this nation will have proved to be the weaker one and the future belongs solely to the stronger eastern nation. Besides, those who would remain after the battle were only the inferior ones, for the good ones had been killed."

I go on to quote:

"After these words I was profoundly shaken, and when on the next day I read the order for destruction, and shortly after that the strict order of evacuation, I saw in this the first steps toward the realization of these intentions . . ."

DR. FLÄCHSNER: Mr. President, may I in this connection submit as a Speer document the destruction order of Hitler dated 19 March 1945, which the Tribunal will find on Page 73 of the French and Page 76 of the English text of the document book.

I also submit to the Tribunal the execution order for the traffic and communication systems which you will find on Page 78 of the English text and Page 75 of the French text. They become Exhibit Number Speer-26.

Then I submit the order for destruction and evacuation by Bormann, dated 23 March 1945, which is contained on Page 102 of my document book. The latter document bears the Exhibit Number Speer-27.

Herr Speer, since these are orders with technical expressions, will you please summarize the contents briefly for the Tribunal?

THE PRESIDENT: You said that last one was at Page 102 of the second volume. In my copy is a document of General Guderian of 15 December 1944.

DR. FLÄCHSNER: Mr. President, I beg to apologize, I have made a mistake. It is not Page 102, it is Pages 93 and 94, I beg to apologize. I have only just received the document today.

Herr Speer, will you briefly elucidate these orders?

SPEER: I can summarize them very briefly. They gave the order to the Gauleiter to carry out the destruction of all industrial plants, all important electrical facilities, water works, gas works, and so on, and also the destruction of all food stores and clothing stores. My jurisdiction had specifically been excluded by that order, and all my orders for the maintenance of industry had been canceled.

The military authorities had given the order that all bridges should be destroyed, and in addition all railway installations, postal systems, communication systems in the German railways, also the waterways, all ships, all freight cars, and all locomotives. The aim was, as is stated in one of the decrees, the creation of a traffic desert.

The Bormann decree aimed at bringing the population to the center of the Reich, both from the West and the East, and the foreign workers and prisoners of war were to be included. These millions of people were to be sent upon their trek on foot. No

provisions for their existence had been made, nor could it be carried out in view of the situation.

The carrying out of these orders alone would have resulted in an unimaginable hunger catastrophe. Add to this that on 19 March 1945 there was a strict order from Hitler to all army groups and all Gauleiter that the battle should be conducted without consideration for our own population.

With the carrying out of these orders, Hitler's pledge of 18 March would be kept, namely, that it would not be necessary ". . . to take into consideration the basis which the people would need to continue a most primitive existence. On the contrary, it would be better to destroy these things ourselves . . ." Considering the discipline which came into force in Germany in connection with every order, no matter what its contents, it was to be expected that these orders would be carried out. These orders also applied to those territories which had been included in the Greater German Reich.

During journeys into the most endangered territories, and by means of discussions with my associates, I now quite openly tried to stop the carrying out of these orders. I ordered that the high explosives which were still available in the Ruhr should be dropped down the mines, and that the stores of high explosives which were on the building sites should be hidden.

We distributed submachine guns to the most important plants so that they could fight against destruction. All this, I know, sounds somewhat exaggerated; but the situation at the time was such that if a Gauleiter had dared to approach the coal mines in the Ruhr and there was a single submachine gun available, then it would have been fired.

I tried to convince the local army commanders of the nonsensical character of the task of exploding bridges, which had been given to them, and furthermore by talking to the local authorities I succeeded in stopping most of the evacuation which had been ordered. In this connection the State Secretary of the Party Chancellery, Klopper, deserves credit in that he held up the evacuation orders which were to be sent to the Gauleiter.

When I came back from this journey, I was called before Hitler at once. This was on 29 March 1945. I had intentionally resisted his orders so openly, and I had discussed the lost war with so many of his Gauleiter that my insubordination must have become known to him. Witnessses are available from that period who know that that is what I wanted to achieve.

I did not want to betray him behind his back. I wanted to put the alternative before him. At the beginning of the conference he stated that he had had reports from Bormann to the effect that

I considered the war as lost and that I had openly talked against his prohibition. He demanded that I should make a statement to the effect that I did not consider the war lost, and I replied, "The war is lost." He gave me 24 hours to think, and it was during those 24 hours that the letter was written from which the extract has been quoted and which has been submitted to the Tribunal in full.

After this period of reflection, I intended to hand him this letter as my reply. But he refused to accept it. Thereupon, I declared to him that he could rely on me in the future, and in that way I was able to get him to hand over to me once more the carrying out of the destruction work.

DR. FLÄCHSNER: In this connection, may I submit Hitler's order dated 30 March 1945, which the Tribunal will find on Pages 83 of the English and 79 of the French text in the document book. It will be Exhibit Number 28.

Then what did you do on the strength of this new order which you had?

SPEER: I had the text of it drawn up and it gave me the possibility of circumventing the destruction which had been ordered. I issued an order at once re-establishing all my old orders for the safeguarding of industry. In this connection, I did not submit this new order of mine for Hitler's approval, although he had expressly made this proviso in his order.

Contrary to the promise which I had given him, namely, that I would stand behind him unconditionally, I left as early as the following day to see Seyss-Inquart, who has testified to that here, and two other Gauleiter to tell them too that the war was lost and to discuss the consequences with them.

On that occasion I found Seyss-Inquart very understanding. Both my decree for the prevention of destruction and my discussions were contrary to the promise I had given Hitler on 29 March. I considered that this was my natural duty.

DR. FLÄCHSNER: I submit as Exhibit Number Speer-29 the instructions issued by Speer on 30 March for carrying out the order which has already been mentioned. In the French and German texts of the document book it appears on Page 81 and in the English document book on Page 85.

SPEER: In spite of this, the orders for the destruction of bridges still remained in force; and everywhere in Germany, Austria, and Poland and elsewhere you can see the results today. I made numerous journeys to the front and had many conferences with the commanders of the front-line troops. Perhaps that may have brought about relief in some form or other. Finally, I succeeded

in persuading the commander of the Signal Corps, on 3 April 1945, to forbid at least the destruction of the signal, postal, railway, and wireless installations by means of a new order.

Finally, on 5 April I issued six OKW orders under the name of General Winter, who has been a witness in this courtroom. These orders were to insure the preservation of important railway lines. The orders are still in existence. I issued these orders through my command channels and the channels of the Reich railways; and considering the tremendous mix-up of orders at the time, such orders, which I was not empowered to give, would at least have a confusing effect.

DR. FLÄCHSNER: Herr Speer, a number of attempts on your part to shorten the war became known to the press. Could you please describe to the Court the situation which has been hinted at in the press.

SPEER: I do not want to spend too much time on things which did not succeed. I tried repeatedly to exclude Himmler and others from the Government and to force them to account for their deeds. To carry out that and other plans, eight officers from the front joined me, all of whom held high decorations. The State Secretary of the Propaganda Ministry made it possible for me on 9 April to speak briefly over the entire German radio system. All preparations were made, but at the last moment Goebbels heard about it and demanded that Hitler should approve the text of my speech. I submitted to him a very modified text. But he forbade even this very modified text.

On 21 April 1945 it was possible for me first of all to record a speech at the broadcasting station at Hamburg. This was to be broadcast as the instructions for the final phase. The recording officials, however, demanded that this speech should be broadcast only after Hitler's death, which would relieve them of their oath of allegiance to him.

Furthermore, I was in contact with the chief of staff of an army group in the East, the Army Group Vistula. We were both agreed that a fight for Berlin must not take place and that, contrary to their orders, the armies should by-pass Berlin. To begin with, this order was carried out; but later several persons empowered with special authority by Hitler were sent outside Berlin and succeeded in leading some divisions into Berlin. The original intention however that entire armies should be led into Berlin was thus not carried through. The chief of staff with whom I had these conferences was General Kinzler.

DR. FLÄCHSNER: Were these attempts still of any avail at the beginning of April and later on?

SPEER: Yes. We expected that the war would last longer, for Churchill, too, prophesied at the time that the end of the war would come at the end of July 1945.

DR. FLÄCHSNER: You have described here how much you did to preserve industrial plants and other economic installations. Did you also act on behalf of the foreign workers?

SPEER: My responsibility was the industrial sector. I felt it my duty, therefore, in the first place to hand over my sector undamaged. Yet several attempts of mine were also in favor of foreign workers in Germany. In the first place, these foreign workers and prisoners of war, through the steps which I had taken to secure the food situation, were quite obviously cobeneficiaries of my work during the last phase.

Secondly, during local discussions on the prevention of blastings, contrary to the evacuation orders which had been received from the Party, I made it possible for the foreign workers and prisoners to remain where they were. Such discussions took place on 18 March in the Saar district, and on 28 March in the Ruhr district. At the beginning of March I made the proposal that 500,000 foreigners should be repatriated from the Reich to the territories which we still held; that is to say, the Dutch to Holland, the Czechs to Czechoslovakia. The Reichsbahn, however, refused to take responsibility for these transports, since the traffic system had already been so damaged that the carrying out of this plan was no longer possible. Finally, both in the speech I intended to make over the German broadcasting system on 9 April and in the attempted Hamburg speech, I pointed out the duties which we had toward the foreigners, the prisoners of war, and the prisoners from concentration camps during this last phase.

DR. FLÄCHSNER: Mr. President, may I draw your attention to Page 88 of the English text in this connection; it is Page 84 of the French, and I submit it as Exhibit Number Speer-30.

Herr Speer, you have described to us how much during the last phase of the war you were opposed to Hitler and his policies. Why did you not resign?

SPEER: I had a chance to resign on three occasions; once in April 1944, when my powers had been considerably reduced; the second time in September 1944, when Bormann and Goebbels were in favor of my resignation; and the third time on 29 March 1945, when Hitler himself demanded that I should go on permanent leave, which was equivalent to resignation. I turned down all these opportunities because, beginning with July 1944, I thought that it was my duty to remain at my post.

DR. FLÄCHSNER: There has been testimony in this courtroom to the effect that the last phase of the war, that is, from January 1945, was justified from the point of view that the nation should be spared unnecessary sacrifices. Were you of that same opinion?

SPEER: No. It was said that military protection against the East would have been necessary to protect refugees. In reality, until the middle of April 1945, the bulk of our last reserves of armored vehicles and munitions were used for the fight against the West. The tactical principle, therefore, was different from the one it should have been if the fight had been carried out with the aims which have been stated here. The destruction of bridges in the West and the destruction orders against the basis of life of the nation show the opposite. The sacrifices which were made on both sides after January 1945 were senseless. The dead of this period will be the accusers of the man responsible for the continuation of that fight, Adolf Hitler. The same is true of the ruined cities, which in this last phase had to lose tremendous cultural values and where innumerable dwellings suffered destruction. Many of the difficulties under which the German nation is suffering today are due to the ruthless destruction of bridges, traffic installations, trucks, locomotives, and ships. The German people remained loyal to Adolf Hitler until the end. He betrayed them with intent. He tried to throw them definitely into the abyss. Only after 1 May 1945 did Dönitz try to act with reason, but it was too late.

DR. FLÄCHSNER: I have one last question.

Was it possible for you to reconcile your actions during the last phase of the war with your oath and your conception of loyalty to Adolf Hitler?

SPEER: There is one loyalty which everyone must always keep; and that is loyalty toward one's own people. That duty comes before everything. If I am in a leading position and if I see that the interests of the nation are acted against in such a way, then I too must act. That Hitler had broken faith with the nation must have been clear to every intelligent member of his entourage, certainly at the latest in January or February 1945. Hitler had once been given his mission by the people; he had no right to gamble away the destiny of the people with his own. Therefore I fulfilled my natural duty as a German. I did not succeed in everything, but I am glad today that by my work I was able to render one more service to the workers in Germany and the occupied territories.

DR. FLÄCHSNER: Mr. President, I have now reached the end of my examination of the Defendant Speer.

May I perhaps draw the attention of the Tribunal to the fact that statements have been made on the theme which was the

subject of this afternoon's session by the witnesses: Kehrl, in his interrogatory under 10 and 12; Rohland, under 5, 6, and 8; Schieber, under 25; Guderian, under 1 to 3, 7 to 9, and on point 6; Stahl, named by Speer, under Points 1 and 2 of his testimony; and Kempf, under Number 10 of her testimony.

Still outstanding are an interrogatory from the witness Malzacher and an interrogatory—which is most important to the defense—of the witness Von Poser, since he was the liaison officer between the General Staff of the Army and Speer's Ministry; these will be handed in when received. Furthermore, still outstanding is the interrogatory of General Buhle, who was the Chief of the Army Staff, and Colonel Baumbach, who was commander of a bomber squadron. The remaining documents I shall submit to the Tribunal at the end of the final examination of the Defendant Speer.

THE PRESIDENT: Do any of the other defendants' counsel want to ask any questions?

DR. SERVATIUS: Witness, during the negotiations which Sauckel had in 1943 and 1944 with Laval in Paris, were there representatives present who came from your department and did they support Sauckel's demands?

SPEER: During these conferences representatives from my departments were sometimes present. They were present for the purpose of protecting the blocked factories and also to see to it that there were no encroachments on the production interests which I planned to protect.

DR. SERVATIUS: So that these representatives were, therefore, not acting to support Sauckel's demands but were against them?

SPEER: It was not the task of these representatives to act for or against Sauckel's demands, because Sauckel stated his demands in such a definite way that a subordinate official was not in a position to speak either for or against these demands in any way. This would have been a task which I would have had to carry out myself.

DR. SERVATIUS: So that these representatives did not fulfill any task?

SPEER: My representatives were the representatives from the armament, from the heavy armament and war production in the occupied territories, and as such they had their special tasks.

DR. SERVATIUS: Witness, did you in 1943, acting independently and without consultation with Sauckel, transfer 50,000 French Organization Todt workers to the Ruhr district?

SPEER: Yes, that is true. After the attack on the Möhne Dam and the Eder Dam in April and May 1943, I went there and in that

period I ordered that a special group from the Organization Todt should take over the restoration of these plants. I did this because I also wanted the machinery and the technical staff on the spot. This special group right away without asking me brought the French workers along. This had tremendous repercussions for us in the West because the workers on the building sites on the Atlantic Wall, who had up to that time felt safe from Sauckel's reach . . .

DR. SERVATIUS: Witness, we are not interested in hearing what was done there. I am only interested in the fact that these 50,000 OT workers were obtained without Sauckel's agreement and by yourself independently; and that you have confirmed, haven't you?

SPEER: Yes, that is true.

DR. SERVATIUS: Sauckel was responsible for the ruling on working hours in these plants. Do you know that the 10-hour day was later on ordered by Goebbels in his capacity as Plenipotentiary for Total Warfare, applicable to both Germans and foreign workers?

SPEER: That is probably true. I do not directly recollect it, but I assume it is right.

DR. SERVATIUS: Then you have stated that the Geneva Convention was not applied to Soviet prisoners of war and Italian civilian internees?

SPEER: Yes.

DR. SERVATIUS: Do you know that the Geneva Convention, although it was not recognized for Soviet prisoners of war, was nevertheless applied *de facto,* and that there were orders to that effect?

SPEER: I cannot give you any information about that, because it was too much of a detail and was dealt with by my departments directly. I should like to confirm it for you.

DR. SERVATIUS: I shall later on submit to the Tribunal a document which confirms this.

Do you know that Italian civilian internees, that is, those who came from the Italian Armed Forces, were transferred to the status of free workers and therefore did not come under the Convention?

SPEER: Yes, that is true, and it was done on Sauckel's request.

DR. SERVATIUS: The factory managers were responsible for carrying out Sauckel's orders in the factories. Is that right?

SPEER: As far as they could be carried out, yes.

DR. SERVATIUS: And you have said that if, on account of special events such as air attacks, it was not possible to carry them out, the supreme authorities in the Reich would have had to take them over?

SPEER: Yes.

DR. SERVATIUS: Which authorities in the Reich do you mean?

SPEER: The Plenipotentiary General for the Allocation of Labor.

DR. SERVATIUS: That would be Sauckel?

SPEER: Yes. And the German Labor Front, which was responsible for accommodations and working conditions.

DR. SERVATIUS: Which organization did Sauckel have at his disposal to stop these abuses? Was this a matter of practical assistance then?

SPEER: No. I think you have misunderstood me. The "catastrophe emergency" comprised conditions brought about by *force majeure*. Nobody could remedy them, even with the best will in the world, because every day there were new air attacks. But it is impossible, as Sauckel has testified, to hold the factory manager also responsible for the fact that these conditions could not be alleviated. I wanted to indicate that in such emergencies the leaders in their entirety must get together and decide whether conditions were still bearable or not. In that connection it was the special duty of Sauckel, as the official who made the reports and gave the orders, to convene such meetings.

DR. SERVATIUS: To whom then was he supposed to make such recommendations?

SPEER: To the Führer.

DR. SERVATIUS: Witness, you have explained your own administrative organization and you have said that you were an opponent of a bureaucratic administration. You introduced self-administration for the factories; and on the professional side, you formed "rings" and above them committees which were directed by you.

SPEER: Yes.

DR. SERVATIUS: And it was a closed administration which could not be penetrated from the outside by other authorities?

SPEER: Yes, I would not have allowed that.

DR. SERVATIUS: So you were actually the representative of these firms toward the higher authorities.

SPEER: Only as far as the technical tasks were concerned, as I have stated here.

DR. SERVATIUS: You limited yourself to the technical tasks?

SPEER: Well, otherwise I would have been responsible for food conditions, or health conditions, or matters which concerned the

Police; but that was expecting too much. In that case one would have had to give me another post.

DR. SERVATIUS: Witness, did you not refer earlier to the fact that, particularly as far as food was concerned, you had given instructions which would benefit the workers; and are you not in that way confirming my view that you bore the entire responsibility for that sector?

SPEER: Not in the least. I believe that I undertook the actions of the last phase within my general responsibility, but not the particular responsibility for that sector.

DR. SERVATIUS: Then, Witness, you spoke about the responsibility of the Gauleiter as Reich defense commissioners with reference to the armament industries. Could you describe in more detail the scope of that responsibility, because I did not understand it.

SPEER: From 1942, responsibility was transferred to the Gauleiter as Reich defense commissioners to an ever-increasing degree. This was mostly the effort of Bormann . . .

DR. SERVATIUS: What tasks did they have?

SPEER: Just a minute . . . who desired the centralization of all the forces of the State and the Party in the Gauleiter. This state of centralization had almost been achieved in full after 1943, the only exception which still existed being my armament offices, the so-called Armament Inspectorates. These, since they had previously come under the OKW, were military establishments which were staffed by officers; and that made it possible for me to remain outside the jurisdiction of the Gauleiter. But the Gauleiter was the central authority in his Gau, and he assumed the right to give orders where he did not have it. The situation with us was, as you know, that it was not so important as to who was vested with authority; it was a question of who assumed the right to give orders. In this case most Gauleiter did assume all the rights, by which means they were the responsible and central authority.

DR. SERVATIUS: What do you mean by "central authority"? Perhaps I may put something to you: The Gauleiter, as Reich defense commissioner, only had the task of centralizing the offices if a decision was necessary in the Gau, for instance, after an air attack, the removal of the damage, construction of a new plant, or acquisition of new grounds, so that the various departments would be brought to one conference table; but he did not have the authority to give orders or make decisions. Is that right?

SPEER: No. I should like to recommend that you talk to a few Gauleiter who will tell you how it was.

DR. SERVATIUS: In that case, I will drop the question. I will submit the law. You then went on to say, Witness, that during a certain period there was a surplus of labor in Germany. Was this due to the fact that Sauckel had brought too many foreign workers into Germany?

SPEER: There may be an error here. My defense counsel has referred to two documents according to which during the time from April 1942 until April 1943 Sauckel had supplied more labor to the armament sector than armament had requested. I do not know if that is the passage you mean.

DR. SERVATIUS: I can only remember that you said that there had been more workers than were required.

SPEER: Yes.

DR. SERVATIUS: You do not mean to say that this had been caused by the fact that Sauckel had brought too many workers in from foreign countries?

SPEER: No. I wanted to prove by that answer that even according to Sauckel's opinion at the time he did not endeavor to bring workers to Germany from France, *et cetera,* corresponding to my maximum demands. For if in a report to Hitler he asserts that he brought more workers to the armament sector than I demanded, as can be seen from the letter, then it would be clear that he did more than I asked him to do. Actually, it was quite different. In actual fact, he did not supply these workers at all, and we had a heated argument because it was my opinion that he had supplied a far smaller number and had boosted his report to Hitler. However, for this Trial the document is valid.

DR. SERVATIUS: You have just pointed out also that there was an argument between you and Sauckel as to whether there were sufficient labor reserves in Germany; and if I have understood you rightly, you said that if workers had been mobilized in the manner used by England and the Soviet Union, one would not have needed any foreign workers at all. Is that true?

SPEER: No, I did not say that.

DR. SERVATIUS: Well then, how am I to understand it?

SPEER: I have expressed clearly enough that I considered Sauckel's labor policy of bringing foreigners into Germany to be the proper course. I did not try to dodge that responsibility, but there did exist considerable reserves of German labor; that again is only proof of the fact that I was not responsible for the maximum demands made, and that was all I wanted to prove.

DR. SERVATIUS: Are the laws known to you according to which German women and youths were used to a very considerable degree?

SPEER: Yes.

DR. SERVATIUS: Do you also know that officers' wives and the wives of high officials also worked in factories?

SPEER: Yes, as from August 1944.

DR. SERVATIUS: Well then, where were these labor reserves of which you are speaking?

SPEER: I was talking about the time of 1943. In 1943 I demanded in the Central Planning Board that the German labor reserves should be drawn upon, and in 1944 during the conversation of 4 January with Hitler I said the same thing. Sauckel at that time stated—and that can be seen from his speech of 1 March 1944, which has been submitted as a document—that there were no longer any reserves of German workers.

DR. SERVATIUS: Yes.

SPEER: But at the same time he also testified here that he had succeeded in 1944 in mobilizing a further 2 million workers from Germany, whereas at a conference with Hitler on 1 January 1944 he considered that to be completely impossible. Thus he has himself proved here that at a time when I desired the use of internal labor he did not think there was any, although he was later forced by circumstances to mobilize these workers from Germany after all; therefore my statement at the time was right.

DR. SERVATIUS: Witness, these 2 million workers you have mentioned, were they people who could be employed in industry?

SPEER: Yes, of course.

DR. SERVATIUS: Were they employed directly as skilled workers in industry?

SPEER: No, they had to be trained first.

DR. SERVATIUS: Did they not first of all have to go through complicated transfers to be released from one firm to another?

SPEER: Only partly, because we had a possibility of using them in the fine-mechanical industry and other kinds of work; and also, as everyone who is familiar with American and British industry knows, these modern machines are perfectly suitable to be worked by women, even for difficult work.

THE PRESIDENT: The Tribunal is not interested in all these details, Dr. Servatius.

DR. SERVATIUS: Mr. President, I am very interested in the basic question, because if workers were obtained from foreign countries in excess numbers and if, therefore, there was no necessity for the State to have them, it is of the greatest importance from the point of view of international law in considering the question

as to whether labor can be recruited. That is what I wish to clarify.

I have two more questions, and perhaps I may put them now.

THE PRESIDENT: Yes, you can put two more questions, but not on those details.

DR. SERVATIUS: No, they are questions on other points.

Witness, you have stated that your attempt to subordinate Sauckel to yourself failed. Did you not achieve that subordination in practice by the fact that on the intermediate level Sauckel's Gau labor exchanges would have to do what your armament commissions ordered?

SPEER: No. That is a matter into which I shall have to go in greater detail. If you want an explanation . . .

DR. SERVATIUS: But you have said "no". . .

SPEER: Yes. But these are entirely new conceptions which should first be explained to the Court, but if "no" is sufficient for you . . .

DR. SERVATIUS: There is no need for any lengthy statement, because if you clearly say "no," the matter is settled.

Witness, one last question. You said that Sauckel decided the question of distributing labor within his working staff.

SPEER: Yes.

DR. SERVATIUS: He himself says that the Führer made certain decisions. Must not one differentiate between the wholesale demands for a program where it is a problem of the distribution of labor over a lengthy period, and the distribution which was effected currently according to the progress of the program?

SPEER: According to my recollection, and also from having read the records I received of the Führer conferences, there are two phases to be distinguished. The first one ended in October 1942, during which there were frequent joint conferences with Sauckel, which I attended. During these conferences the distribution of labor for the next months was discussed in detail. After that time there were no longer any conferences with Hitler, which went into detail, at which I was present. I only know of the conferences of January 1944, and then there was another conference in April or May 1944 which has not yet been mentioned here. During those conferences there was only a general discussion, and the distribution was then carried out in accordance with the directives, as Sauckel says.

DR. SERVATIUS: But that is just what I am asking you. These were lump demands referring to a program, and the basic decision was made that 2 million workers were to be obtained from foreign countries; the subsequent distribution was carried out by Sauckel.

SPEER: Yes, that is right, and I can confirm Sauckel's testimony that his orders concerning the occupied territories always came from Hitler, since he needed Hitler's authority to assert himself in occupied territory.

DR. SERVATIUS: In that case, Mr. President, I have no further questions.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 21 June 1946 at 1000 hours.]

ONE HUNDRED AND SIXTIETH DAY

Friday, 21 June 1946

Morning Session

[The Defendant Speer resumed the stand.]

THE PRESIDENT: Have you finished, Dr. Servatius?

DR. SERVATIUS: Yes.

THE PRESIDENT: Very well. Do any other defendants' counsel want to ask any questions?

PROFESSOR DR. HERBERT KRAUS (Counsel for Defendant Schacht): Witness, on 25 January 1946 you handed two statements to my client here in the prison at Nuremberg. During his examination Dr. Schacht made brief mention of these, and for the sake of brevity I should like the Tribunal to allow me to read out the statement which the defendant gave me that day so that its truth may be confirmed. It is very brief. The first statement reads as follows:

"I was on the terrace of the Berghof on the Obersalzberg waiting to submit my building plans"—this was in the summer of 1937—"when Schacht appeared at the Berghof. From where I was on the terrace I could hear a loud argument between Hitler and Schacht in Hitler's room. Hitler's voice grew louder and louder. At the end of the discussion Hitler came out on the terrace and, visibly excited, he told the people about him that he could not collaborate with Schacht, that he had had a terrible argument with him, and that Schacht was going to upset his plans with his finance methods."

Now, that is the first statement. Is it correct?

SPEER: Yes, it is.

DR. KRAUS: It is correct. The second statement deals with the events after 20 July. It reads as follows:

"It was on or about 22 July that Hitler said in my presence to a fairly large group of people . . ."

THE PRESIDENT: What year?

DR. KRAUS: 1944, Your Lordship.

". . . that Schacht, as one of the opponents of the authoritarian system, should be one of those to be arrested. Hitler went on to speak harshly of Schacht's activities and of the difficulties

which he, Hitler, had experienced through Schacht's economic policy as regards rearmament. He said that actually a man like Schacht should be shot for his oppositional activity before the war."

The last sentence of the statement says:

"After the harshness of these remarks, I was surprised to meet Schacht here alive."

Is this statement correct, too?

SPEER: Yes, it is.

DR. KRAUS: Thank you.

THE PRESIDENT: Do any of the other defendants' counsel want to ask questions?

Then, do the Prosecution wish to cross-examine?

MR. JUSTICE ROBERT H. JACKSON (Chief of Counsel for the United States): Defendant, your counsel divided your examination into two parts which he described first as your personal responsibilities, and secondly as the political part of the case, and I will follow the same division.

You have stated a good many of the matters for which you were not responsible, and I want to make clear just what your sphere of responsibility was.

You were not only a member of the Nazi Party after 1932, but you held high rank in the Party, did you not?

SPEER: Correct.

MR. JUSTICE JACKSON: And what was the position which you held in the Party?

SPEER: I have already mentioned that during my pre-trial interrogations. Temporarily in 1934 I became a department head in the German Labor Front and dealt with the improvement of labor conditions in German factories. Then I was in charge of public works on the staff of Hess. I gave up both these activities in 1941. Notes of the conference I had with Hitler about this are available. After 8 February 1942 I automatically became Todt's successor in the central office for technical matters in the Reichsleitung of the NSDAP.

MR. JUSTICE JACKSON: And what was your official title?

SPEER: Party titles had just been introduced, and they were so complicated that I cannot tell you at the moment what they were. But the work I did there was that of a department chief in the Reichsleitung of the NSDAP. My title was Hauptdienstleiter or something of the kind.

MR. JUSTICE JACKSON: In the 1943 directory it would appear that you were head of the "Hauptamt für Technik."

SPEER: Yes.

MR. JUSTICE JACKSON: And your rank appears to be "Oberbefehlsleiter"?

SPEER: Yes, that is quite possible.

MR. JUSTICE JACKSON: Which as I understand corresponds roughly to a lieutenant general in the army?

SPEER: Well, compared to the other tasks I had it was very little.

MR. JUSTICE JACKSON: And you attended Party functions from time to time and were informed in a general way as to the Party program, were you not?

SPEER: Before 1942 I joined in the various Party rallies here in Nuremberg because I had to take part in them as an architect, and of course besides this I was generally present at official Party meetings or Reichstag sessions.

MR. JUSTICE JACKSON: And you heard discussed, and were generally familiar with, the program of the Nazi Party in its broad outlines, were you not?

SPEER: Of course.

MR. JUSTICE JACKSON: You—there is some question as to just what your relation to the SS was. Will you tell me whether you were a member of the SS?

SPEER: No, I was not a member of the SS.

MR. JUSTICE JACKSON: You filled out an application at one time, or one was filled out for you, and you never went through with it, I believe, or something of that sort.

SPEER: That was in 1943 when Himmler wanted me to get a high rank in the SS. He had often wanted it before when I was still an architect. I got out of it by saying that I was willing to be an ordinary SS man under him because I had already been an SS man before. Thereupon, Gruppenführer Wolff provisionally filled out an application form and wanted to know what my previous SS activities had been in 1932. It came up during his inquiries that in those days I was never registered as a member of the SS, and because of this they did not insist on my joining as I did not want to become a new member now.

MR. JUSTICE JACKSON: And why did you not want to be a member of the SS, which was after all one of the important Party formations?

SPEER: No, I became well known for turning down all these honorary ranks. I did not want them because I felt that one should only hold a rank where one had responsibility.

MR. JUSTICE JACKSON: And you did not want any responsibility in the SS?

SPEER: I had too little contact with the SS, and did not want any responsibility in that connection.

MR. JUSTICE JACKSON: Now there has been some testimony about your relation to concentration camps, and, as I understand it, you have said to us that you did use and encourage the use of forced labor from the concentration camps.

SPEER: Yes, we did use it in the German armament industry.

MR. JUSTICE JACKSON: And I think you also recommended that persons in labor camps who were slackers be sent to the concentration camps, did you not?

SPEER: That was the question of the so-called "Bummelanten," and by that name we meant workers who did not get to their work on time or who pretended to be ill. Severe measures were taken against such workers during the war, and I approved of these measures.

MR. JUSTICE JACKSON: In fact, in the 30 October 1942 meeting of the Central Planning Board you brought the subject up in the following terms, did you not—quoting Speer:

> "We must also discuss the slackers. Ley has ascertained that the sick list decreases to one-fourth or one-fifth in factories where doctors are on the staff who examine the sick men. There is nothing to be said against SS and Police taking drastic steps and putting those known to be slackers into concentration camp factories. There is no alternative. Let it happen several times, and the news will soon get around."

That was your recommendation?

SPEER: Correct.

MR. JUSTICE JACKSON: In other words, the workmen stood in considerable terror of concentration camps, and you wanted to take advantage of that to keep them at their work, did you not?

SPEER: It is certain that concentration camps had a bad reputation with us, and the transfer to a concentration camp, or threat of such a possibility, was bound to reduce the number of absentees in the factories right from the beginning. But at that meeting, as I already said yesterday, there was nothing further said about it. It was one of the many remarks one can make in wartime when one is upset.

MR. JUSTICE JACKSON: However, it is very clear—and if I misinterpret you I give you the chance to correct me—that you understood the very bad reputation that the concentration camps

had among the workmen and that the concentration camps were regarded as being much more severe than the labor camps as places to be in.

SPEER: That is correct. I knew that. I did not know, of course, what I have heard during this Trial, but the other thing was a generally known fact.

MR. JUSTICE JACKSON: Well, it was known throughout Germany, was it not, that the concentration camps were pretty tough places to be put?

SPEER: Yes, but not to the extent which has been revealed in this Trial.

MR. JUSTICE JACKSON: And the bad reputation of the concentration camp, as a matter of fact, was a part of its usefulness in making people fearful of being sent there, was it not?

SPEER: No doubt concentration camps were a means, a menace used to keep order.

MR. JUSTICE JACKSON: And to keep people at work?

SPEER: I would not like to put it in that way. I assert that a great number of the foreign workers in our country did their work quite voluntarily once they had come to Germany.

MR. JUSTICE JACKSON: Well, we will take that up later. You used the concentration camp labor in production to the extent that you were required to divide the proceeds of the labor with Himmler, did you not?

SPEER: That I did not understand.

MR. JUSTICE JACKSON: Well, you made an agreement finally with Himmler that he should have 5 percent, or roughly 5 percent, of the production of the concentration camp labor while you would get for your work 95 percent?

SPEER: No, that is not quite true.

MR. JUSTICE JACKSON: Well, tell me how it was. That is what the documents indicate, if I read them aright.

SPEER: Yes, it is put that way in the Führer minutes, but I should like to explain the meaning to you. Himmler, as I said yesterday, wanted to build factories of his own in his concentration camps. Then he would have been able to produce arms without any outside control, which Hitler, of course, knew. The 5 percent arms production which was to have been handed to Himmler was to a certain extent a compensation for the fact that he himself gave up the idea of building factories in the camps. From the psychological point of view it was not so simple for me to get Himmler to give up this idea when he kept on reminding Hitler of it. I was hoping

that he would be satisfied with the 5 percent arms production we were going to give him. Actually this 5 percent was never handed over. We managed things quietly with the Operations Staff of the OKW and with General Buhle, so that he never got the arms at all.

MR. JUSTICE JACKSON: Well, I am not criticizing the bargain, you understand. I don't doubt you did very well to get 95 percent, but the point is that Himmler was using, with your knowledge, concentration camp labor to manufacture arms, or was proposing to do so, and you wanted to keep that production within your control?

SPEER: Could the translation come through a bit clearer? Would you please repeat that?

MR. JUSTICE JACKSON: You knew at this time that Himmler was using concentration camp labor to carry on independent industry and that he proposed to go into the armament industry in order to have a source of supply of arms for his own SS?

SPEER: Yes.

MR. JUSTICE JACKSON: You also knew the policy of the Nazi Party and the policy of the Government towards the Jews, did you not?

SPEER: I knew that the National Socialist Party was anti-Semitic, and I knew that the Jews were being evacuated from Germany.

MR. JUSTICE JACKSON: In fact, you participated in that evacuation, did you not?

SPEER: No.

MR. JUSTICE JACKSON: Well, I gather that impression from Document L-156, Exhibit RF-1522, a letter from the Plenipotentiary for the Allocation of Labor which is dated 26 March 1943, which you have no doubt seen. You may see it again, if you wish. In which he says . . .

SPEER: I know it.

MR. JUSTICE JACKSON: "At the end of February, the Reichsführer SS, in agreement with myself and the Reich Minister for armaments and munitions, for reasons of state security, has removed from their places of work all Jews who were still working freely and not in camps, and either transferred them to a labor corps or collected them for removal."

Was that a correct representation of your activity?

SPEER: No.

MR. JUSTICE JACKSON: Will you tell me what part you had in that? There is no question that they were put into labor corps or collected for removal, is there?

SPEER: That is correct.

MR. JUSTICE JACKSON: Now you say you did not do it, so will you tell me who did?

SPEER: It was a fairly long business. When, in February 1942, I took over my new office, the Party was already insisting that Jews who were still working in armament factories should be removed from them. I objected at the time, and managed to get Bormann to issue a circular letter to the effect that these Jews might go on being employed in armament factories and that Party offices were prohibited from accusing the heads of these firms on political grounds because of the Jews working there. It was the Gauleiter who made such political accusations against the heads of concerns, and it was mostly in the Gau Saxony and in the Gau Berlin. So after this the Jews could remain in these plants.

Without having any authority to do so, I had had this circular letter from the Party published in my news sheet to heads of factories and had sent it to all concerned, so that I would in any case receive their complaints if the Party should not obey the instruction. After that the problem was left alone, until September or October of 1942. At that time a conference with Hitler took place, at which Sauckel also was present. At this conference Hitler insisted emphatically that the Jews must now be removed from the armament firms, and he gave orders for this to be done—this will be seen from a Führer protocol which has been preserved. In spite of this we managed to keep the Jews on in factories and it was only in March 1943, as this letter shows, that resistance gave way and the Jews finally did have to get out.

I must point out to you that, as far as I can remember, it was not yet a question of the Jewish problem as a whole, but in the years 1941 and 1942 Jews had gone to the armament factories to do important war work and have an occupation of military importance; they were able to escape the evacuation which at that time was already in full swing. They were mostly occupied in the electrical industry, and Geheimrat Bücher, of the electrical industry —that is AEG and Siemens—no doubt lent a helping hand in order to get the Jews taken on there in greater numbers. These Jews were completely free and their families were still in their homes.

The letter by Gauleiter Sauckel you have before you was not, of course, submitted to me; and Sauckel says that he himself had not seen it. But it is certainly true that I knew about it before action was taken; I knew because the question had to be discussed as to how one should get replacements. It is equally certain, though, that I also protested at the time at having skilled labor removed from my armament industries because, apart from other reasons, it was going to make things difficult for me.

MR. JUSTICE JACKSON: That is exactly the point that I want to emphasize. As I understand it, you were struggling to get manpower enough to produce the armaments to win a war for Germany.

SPEER: Yes.

MR. JUSTICE JACKSON: And this anti-Semitic campaign was so strong that it took trained technicians away from you and disabled you from performing your functions. Now, isn't that the fact?

SPEER: I did not understand the meaning of your question.

MR. JUSTICE JACKSON: Your problem of creating armaments to win the war for Germany was made very much more difficult by this anti-Jewish campaign which was being waged by others of your codefendants.

SPEER: That is a certainty; and it is equally clear that if the Jews who were evacuated had been allowed to work for me, it would have been a considerable advantage to me.

THE PRESIDENT: Mr. Justice Jackson, has it been proved who signed that document, L-156? It has got a signature apparently on it.

MR. JUSTICE JACKSON: There is a signature on it, I believe the plenipotentiary general for the employment of labor is my thought on it. We will look at that.

THE PRESIDENT: Perhaps the defendant could tell what the signature is.

[The document was shown to the defendant.]

SPEER: I do not know the man. Yes, he must be one of the smaller officials in the offices of the Plenipotentiary for Labor, because I knew all the immediate associates of Sauckel personally—no; I beg your pardon, the document comes from the Regierungspräsident in Koblenz, as I see here. Then it is an assistant in the Government District of Koblenz, whom of course I did not know.

MR. JUSTICE JACKSON: In any event, there is no question about the statement as you have explained it?

SPEER: No.

MR. JUSTICE JACKSON: Now I want to ask you about the recruiting of forced labor. As I understand it, you know about the deportation of 100,000 Jews from Hungary for subterranean airplane factories, and you told us in your interrogation of 18 October 1945 that you made no objection to it. That is true, is it not?

SPEER: That is true, yes.

MR. JUSTICE JACKSON: And you told us also, quite candidly, on that day that it was no secret to you that a good deal of the manpower brought in by Sauckel was brought in by illegal methods. That is also true, is it not?

SPEER: I took great care at the time to notice what expression the interrogating officer used; he used the expression "they came against their wish"; and that I confirmed.

MR. JUSTICE JACKSON: Did you not say that it was no secret to you that they were brought in an illegal manner? Didn't you add that yourself?

SPEER: No, no. That was certainly not so.

MR. JUSTICE JACKSON: Well, in any event, you knew that at the Führer conference in August of 1942 the Führer had approved of all coercive measures for obtaining labor if they couldn't be obtained on a voluntary basis, and you knew that that program was carried out. You, as a matter of fact, you did not give any particular attention to the legal side of this thing, did you? You were after manpower; isn't that the fact?

SPEER: That is absolutely correct.

MR. JUSTICE JACKSON: And whether it was legal or illegal was not your worry?

SPEER: I consider that in view of the whole war situation and of our views in general on this question it was justified.

MR. JUSTICE JACKSON: Yes, it was in accordance with the policy of the Government, and that was as far as you inquired at the time, was it not?

SPEER: Yes. I am of the opinion that at the time I took over my office, in February 1942, all the violations of international law, which later—which are now brought up against me, had already been committed.

MR. JUSTICE JACKSON: And you don't question that you share a certain responsibility for that program for bringing in—whether it is a legal responsibility or not, in fact—for bringing in this labor against its will? You don't deny that, do you?

SPEER: The workers were brought to Germany largely against their will, and I had no objection to their being brought to Germany against their will. On the contrary, during the first period, until the autumn of 1942, I certainly also took some pains to see that as many workers as possible should be brought to Germany in this manner.

MR. JUSTICE JACKSON: You had some participation in the distribution of this labor, did you not, as among different plants, different industries, that were competing for labor?

SPEER: No. That would have to be explained in more detail—I do not quite understand it like that.

MR. JUSTICE JACKSON: Well, you finally entered into an agreement with Sauckel, did you not, in reference to the distribution of the labor after it reached the Reich?

SPEER: That was arranged according to the so-called priority grades. I had to tell Sauckel, of course, in which of my programs labor was needed most urgently. But that sort of thing was dealt with by general instructions.

MR. JUSTICE JACKSON: In other words, you established the priorities of different industries in their claim for the labor when it came into the Reich?

SPEER: That was a matter of course; naturally that had to be done.

MR. JUSTICE JACKSON: Yes. Now, as to the employment of prisoners of war, you—whatever disagreement there may be about the exact figures, there is no question, is there, that prisoners of war were used in the manufacture of armament?

SPEER: No, only Russian prisoners of war and Italian military internees were used for the production of arms. As for the use of French and other prisoners of war in this production I had several conferences with Keitel on the subject. And I must tell you that Keitel always adopted the view that these prisoners of war could not be used in violation of the Geneva Prisoner of War Convention. I can claim that on the strength of this fact I no longer used my influence to see that these prisoners of war should be used in armament industries in violation of the Geneva Convention. The conception, of course, "production of arms" is very much open to argument. It always depends on what position one takes, whether you have a wide conception of "armaments" or a narrow one.

MR. JUSTICE JACKSON: Well, you succeeded to Dr. Todt's organization, and you had all the powers that he had, did you not?

SPEER: Yes.

MR. JUSTICE JACKSON: And one of his directives was dated 31 October 1941, a letter from the OKW which is in evidence here as Exhibit 214, Document EC-194, which provides that the deputies of the Reich Minister for arms and munitions are to be admitted to prisoner-of-war camps for the purpose of selecting skilled workers. That was among your powers, was it not?

SPEER: No. That was a special action which Dr. Todt introduced on the strength of an agreement with the OKW. It was dropped later, however.

MR. JUSTICE JACKSON: Now, on 22 April 1943, at the thirty-sixth meeting of this Planning Board, you made this complaint, did you not, Herr Speer? Quoting:

"There is a statement showing in what sectors the Russian PW's have been distributed, and this statement is quite interesting. It shows that the armament industry only received 30 percent. I always complained about that."

That is correct, is it not?

SPEER: I believe that has been wrongly translated. It should not say "munitions industry"; it should say, "The armament industry received 30 percent."

MR. JUSTICE JACKSON: I said "armament."

SPEER: Yes. But this is still no proof that these prisoners of war were employed in violation of the Geneva Prisoner of War Convention, because in the sector of the armament industry there was ample room to use these workers for production articles which, in the sense of the Geneva Prisoner of War Agreement, were not armament products. However, I believe that in the case of the Russian prisoners of war, there was not the same value attached to strict observance of the Geneva Convention as in the case of prisoners from western countries.

MR. JUSTICE JACKSON: Is it your contention that the prisoners were not used—I now speak of French prisoners of war—that French prisoners of war were not used in the manufacture of materials which directly contributed to the war, or is it your contention that although they were used it was legal under the Geneva Convention?

SPEER: As far as I know, French prisoners of war were not used contrary to the rules of the Convention. I cannot check that, because my office was not responsible for controlling the conditions of their employment. During my numerous visits to factories, I never noticed that any prisoner of war from the western territories was working directly on armament products.

MR. JUSTICE JACKSON: Just tell exactly what French prisoners of war did do by way of manufacture. What were they working on?

SPEER: That I cannot answer. I already explained yesterday that the allotment of prisoners of war, or foreign workers, or German workers to a factory was not a matter for me to decide, but was carried out by the labor office, together with the Stalag, when it was a question of prisoners of war. I received only a general survey of the total number of workers who had gone to the factories, and so I could get no idea of what types of labor were being employed in each individual factory. So I cannot give a satisfactory answer to your question.

MR. JUSTICE JACKSON: Now let us take the 50,000 skilled workers that you said yesterday you removed and put to work in

a different location, that Sauckel complained about. What did you put them to work at?

SPEER: Those were not prisoners of war.

MR. JUSTICE JACKSON: Let us take those workers. What were you doing with them?

SPEER: Those workers had been working on the Atlantic Wall. From there they were transferred to the Ruhr to repair the two dams which had been destroyed by an air attack. I must say that the transfer of these 50,000 workers took place without my knowledge, and the consequences of bringing 50,000 workers from the West into Germany amounted to a catastrophe for us on the Atlantic Wall. It meant that more than one-third of all the workers engaged on the Atlantic Wall left because they, too, were afraid they might have to go to Germany. That is why we rescinded the order as quickly as possible, so that the French workers on the Atlantic Wall should have confidence in us. This fact will show you that the French workers we had working for the Organization Todt were not employed on a coercive basis, otherwise they could not have left in such numbers when they realized that under certain circumstances they, too, might be taken to Germany. So these measures taken with the 50,000 workers from the Organization Todt in France were only temporary and were revised later. It was one of those mistakes which can happen if a minister gives a harsh directive and his subordinates begin to carry it out by every means in their disposal.

MR. JUSTICE JACKSON: Are you familiar with Document EC-60, which reports that the labor organization of Todt had to recruit its manpower by force?

SPEER: At the moment I cannot recollect it.

MR. JUSTICE JACKSON: I beg your pardon?

SPEER: At this moment I cannot recollect it. Could I see the document?

MR. JUSTICE JACKSON: Yes, if you would like to. I just remind you that the evidence is to the contrary of your testimony on that subject.

Page 42, the paragraph which reads:

"Unfortunately the assignments for the Organization Todt on the basis of Article 52 of the Hague Convention on Land Warfare have for some time decreased considerably, because the larger part of the manpower allocated does not turn up. Consequently further compulsory measures must be employed. The prefect and the French labor exchanges co-operate quite

loyally, it is true, but they have not sufficient authority to carry out these measures."

SPEER: I think that I have perhaps not understood correctly. I do not deny that a large number of the people working for the Organization Todt in the West had been called up and came to their work because they had been called up, but we had no means whatsoever of keeping them there by force. That is what I wanted to say. So if they did not want to work, they could leave again; and then they either joined the resistance movement or went into hiding somewhere else.

MR. JUSTICE JACKSON: Very well. But this calling-up system was a system of compulsion, was it not?

SPEER: It was the calling-up of French workers for service in the Reich or in France. But here again I must add something. This report is dated June 1943. In October 1943 the whole of the Organization Todt was given the status of a "blocked factory" and thereby received the advantages which other blocked factories had. I explained that sufficiently yesterday. Because of this, the Organization Todt had large offers of workers who went there voluntarily, unless, of course, you see direct coercion in the pressure put on them through the danger of their transfer to Germany, and which led them to the Organization Todt or the blocked factories.

MR. JUSTICE JACKSON: Were they kept in labor camps?

SPEER: That is the custom in the case of such building work. The building sites were far away from any villages, and so workers' camps were set up to accommodate the German and foreign workers. But some of them were also accommodated in villages, as far as it was possible to accommodate them there. I do not think that on principle they were only meant to be accommodated in camps, but I cannot tell you that for certain.

THE PRESIDENT: Has the document been introduced before?

MR. JUSTICE JACKSON: I was just going to give it to you. The document from which I have quoted is United States Exhibit 892.

Now, leaving the question of the personal participation in this . . .

THE PRESIDENT: Is it new, Mr. Justice Jackson?

MR. JUSTICE JACKSON: No, it has been in.

THE PRESIDENT: It has been in before?

MR. JUSTICE JACKSON: I am told that I am wrong about that, and that it is new. 892 is a new number.

[Turning to the defendant.] Leaving the part of your personal participation in this program . . .

THE PRESIDENT: Could you tell us what the document is and where it comes from? I see it is EC-60; so it must be captured. But . . .

MR. JUSTICE JACKSON: It is one of the economic documents. It is a very large document.

THE PRESIDENT: Could you tell us what it is or who signed it? It is a very long document, apparently, is it?

MR. JUSTICE JACKSON: It is a long document, and it is a report of the Oberfeldkommandant—L-i-l-l-e is the name of the signer.

Now, coming to the question . . .

THE PRESIDENT: Let me look at the document, will you?

You see, Mr. Justice Jackson, my attention has been drawn to the point that as far as the record is concerned, we have only this extract which you read. We have not got the date, and we do not have the signature, if any, on the document.

MR. JUSTICE JACKSON: I was merely refreshing his recollection to get out the facts, and I was not really offering the document for its own sake. I will go into more detail about it, if Your Honor wishes. There is a great deal of irrelevant material in it.

THE PRESIDENT: If you do not want to offer it, then we need not bother about it.

MR. JUSTICE JACKSON: A great part of it is not relevant.

THE PRESIDENT: Yes.

MR. JUSTICE JACKSON: The quotation is adequately verified.

THE PRESIDENT: In that case you may refer to it without the document being used. Then we need not have the document identified as an exhibit.

MR. JUSTICE JACKSON: *[Turning to the defendant.]* Leaving the question of your personal participation in these matters and coming to the questions dealt with in the second part of your examination, I want to ask you about your testimony concerning the proposal to denounce the Geneva Convention.

You testified yesterday that it was proposed to withdraw from the Geneva Convention. Will you tell us who made those proposals?

SPEER: This proposal, as I already testified yesterday, came from Dr. Goebbels. It was made after the air attack on Dresden, but before this, from the autumn of 1944 on, Goebbels and Ley had often talked about intensifying the war effort in every possible way, so that I had the impression that Goebbels was using the attack on Dresden and the excitement it created merely as an excuse to renounce the Geneva Convention.

MR. JUSTICE JACKSON: Now, was the proposal made at that time to resort to poison gas warfare?

SPEER: I was not able to make out from my own direct observations whether gas warfare was to be started, but I knew from various associates of Ley's and Goebbels' that they were discussing the question of using our two new combat gases, Tabun and Sarin. They believed that these gases would be of particular efficacy, and they did in fact produce the most frightful results. We made these observations as early as the autumn of 1944, when the situation had become critical and many people were seriously worried about it.

MR. JUSTICE JACKSON: Now, will you tell us about these two gases and about their production and their effects, their qualities, and the preparations that were made for gas warfare?

SPEER: I cannot tell you that in detail. I am not enough of an expert. All I know is that these two gases both had a quite extraordinary effect, and that there was no respirator, and no protection against them that we knew of. So the soldiers would have been unable to protect themselves against this gas in any way. For the manufacture of this gas we had about three factories, all of which were undamaged and which until November 1944 were working at full speed. When rumors reached us that gas might be used, I stopped its production in November 1944. I stopped it by the following means. I blocked the so-called preliminary production, that is, the chemical supplies for the making of gas, so that the gas-production, as the Allied authorities themselves ascertained, after the end of December or the beginning of January, actually slowed down and finally came to a standstill. Beginning with a letter which is still in existence and which I wrote to Hitler in October 1944, I tried through legal methods to obtain his permission to have these gas factories stop their production. The reason I gave him was that on account of air raids the preliminary products, primarily cyanide, were needed urgently for other purposes. Hitler informed me that the gas production would have to continue whatever happened, but I gave instructions for the preliminary products not to be supplied any more.

MR. JUSTICE JACKSON: Can you identify others of the group that were advocating gas warfare?

SPEER: In military circles there was certainly no one in favor of gas warfare. All sensible Army people turned gas warfare down as being utterly insane since, in view of your superiority in the air, it would not be long before it would bring the most terrible catastrophe upon German cities, which were completely unprotected.

MR. JUSTICE JACKSON: The group that did advocate it, however, consisted of the political group around Hitler, didn't it?

SPEER: A certain circle of political people, certainly very limited. It was mostly Ley, Goebbels and Bormann, always the same three, who by every possible means wanted to increase the war effort; and a man like Fegelein certainly belonged to a group like that too. Of Himmler I would not be too sure, for at that time Himmler was a little out of favor with Hitler because he allowed himself the luxury of directing an army group without being qualified.

MR. JUSTICE JACKSON: Now, one of these gases was the gas which you proposed to use on those who were proposing to use it on others, and I suppose your motive was . . .

SPEER: I must say quite frankly that my reason for these plans was the fear that under certain circumstances gas might be used, and the association of ideas in using it myself led me to make the whole plan.

MR. JUSTICE JACKSON: And your reasons, I take it, were the same as the military's, that is to say, it was certain Germany would get the worst of it if Germany started that kind of warfare. That is what was worrying the military, wasn't it?

SPEER: No, not only that. It was because at that stage of the war it was perfectly clear that under no circumstances should any international crimes be committed which could be held against the German people after they had lost the war. That was what decided the issue.

MR. JUSTICE JACKSON: Now, what about the bombs, after the war was plainly lost, aimed at England day after day; who favored that?

SPEER: You mean the rockets?

MR. JUSTICE JACKSON: Yes.

SPEER: From the point of view of their technical production the rockets were a very expensive affair for us, and their effect compared to the cost of their output was negligible. In consequence we had no particular interest in developing the affair on a bigger scale. The person who kept urging it was Himmler, in this case. He gave one Obergruppenführer Kammler the task of firing off these rockets over England. In Army circles they were of the same opinion as I, namely, that the rockets were too expensive; and in Air Force circles, the opinion was the same, since for the equivalent of one rocket one could almost build a fighter. It is quite clear that it would have been much better for us if we had not gone in for this nonsense.

MR. JUSTICE JACKSON: Going back to the characteristics of this gas, was one of the characteristics of this gas an exceedingly

high temperature? When it was exploded it created exceedingly high temperature, so that there could be no defense against it?

SPEER: No, that is an error. Actually, ordinary gas evaporates at normal atmospheric temperature. This gas would not evaporate until very high temperatures were reached and such very high temperatures could only be produced by an explosion; in other words, when the explosives detonated, a very high temperature set in, as you know, and then the gas evaporated. The solid substance turned into gas, but the effects had nothing to do with the high temperature.

MR. JUSTICE JACKSON: Experiments were carried out with this gas, were they not, to your knowledge?

SPEER: That I can tell you. Experiments must certainly have been carried out with it.

MR. JUSTICE JACKSON: Who was in charge of the experimentations with the gases?

SPEER: As far as I know it was the research and development department of the OKH in the Army ordnance office. I cannot tell you for certain.

MR. JUSTICE JACKSON: And certain experiments were also conducted and certain researches conducted in atomic energy, were they not?

SPEER: We had not got as far as that, unfortunately, because the finest experts we had in atomic research had emigrated to America, and this had thrown us back a great deal in our research, so that we still needed another year or two in order to achieve any results in the splitting of the atom.

MR. JUSTICE JACKSON: The policy of driving people out who didn't agree with Germany hadn't produced very good dividends, had it?

SPEER: Especially in this sphere it was a great disadvantage to us.

MR. JUSTICE JACKSON: Now, I have certain information, which was placed in my hands, of an experiment which was carried out near Auschwitz and I would like to ask you if you heard about it or knew about it. The purpose of the experiment was to find a quick and complete way of destroying people without the delay and trouble of shooting and gassing and burning, as it had been carried out, and this is the experiment, as I am advised. A village, a small village was provisionally erected, with temporary structures, and in it approximately 20,000 Jews were put. By means of this newly invented weapon of destruction, these 20,000 people were eradicated almost instantaneously, and in such a way that there was no trace

left of them; that it developed, the explosive developed, temperatures of from 400° to 500° centigrade and destroyed them without leaving any trace at all.

Do you know about that experiment?

SPEER: No, and I consider it utterly improbable. If we had had such a weapon under preparation, I should have known about it. But we did not have such a weapon. It is clear that in chemical warfare attempts were made on both sides to carry out research on all the weapons one could think of, because one did not know which party would start chemical warfare first.

MR. JUSTICE JACKSON: The reports, then, of a new and secret weapon were exaggerated for the purpose of keeping the German people in the war?

SPEER: That was the case mostly during the last phase of the war. From August, or rather June or July 1944 on I very often went to the front. I visited about 40 front-line divisions in their sectors and could not help seeing that the troops, just like the German people, were given hopes about a new weapon coming, new weapons and wonder-weapons which, without requiring the use of soldiers, without military forces, would guarantee victory. In this belief lies the secret why so many people in Germany offered their lives, although common sense told them that the war was over. They believed that within the near future this new weapon would arrive. I wrote to Hitler about it and also tried in different speeches, even before Goebbels' propaganda leaders, to work against this belief. Both Hitler and Goebbels told me, however, that this was no propaganda of theirs but that it was a belief which had grown up amongst the people. Only in the dock here in Nuremberg, I was told by Fritzsche that this propaganda was spread systematically among the people through some channels or other, and that SS Standartenführer Berg was responsible for it. Many things have become clear to me since, because this man Berg, as a representative of the Ministry of Propaganda, had often taken part in meetings, in big sessions of my Ministry, as he was writing articles about these sessions. There he heard of our future plans and then used this knowledge to tell the people about them with more imagination than truth.

MR. JUSTICE JACKSON: When did it become apparent that the war was lost? I take it that your attitude was that you felt some responsibilitity for getting the German people out of it with as little destruction as possible. Is that a fair statement of your position?

SPEER: Yes, but I did not only have that feeling with regard to the German people. I knew quite well that one should equally

avoid destruction taking place in the occupied territories. That was just as important to me from a realistic point of view, for I said to myself that after the war the responsibility for all these destructions would no longer fall on us, but on the next German Government, and the coming German generations.

MR. JUSTICE JACKSON: Where you differed with the people who wanted to continue the war to the bitter end, was that you wanted to see Germany have a chance to restore her life. Is that not a fact? Whereas Hitler took the position that if he couldn't survive, he didn't care whether Germany survived or not?

SPEER: That is true, and I would never have had the courage to make this statement before this Tribunal if I had not been able to prove it with the help of some documents, because such a statement is so monstrous. But the letter which I wrote to Hitler on 29 March, in which I confirmed this, shows that he said so himself.

MR. JUSTICE JACKSON: Well, if I may comment, it was not a new idea to us that that was his viewpoint. I think it was expressed in most of the other countries that that was his viewpoint.

Now, were you present with Hitler at the time he received the telegram from Göring, suggesting that Göring take over power?

SPEER: On 23 April I flew to Berlin in order to take leave of several of my associates, and—I should like to say this quite frankly—after all that had happened, also in order to place myself at Hitler's disposal. Perhaps this will sound strange here, but the conflicting feelings I had about the action I wanted to take against him and about the way he had handled things, still did not give me any clear grounds or any clear inner conviction as to what my relations should be toward him, so I flew over to see him. I did not know whether he knew of my plans, and I did not know whether he would order me to remain in Berlin. Yet I felt that it was my duty not to run away like a coward, but to stand up to him again. It was on that day that Göring's telegram to Hitler arrived. This telegram was not to Hitler, but from Göring to Ribbentrop; it was Bormann who submitted it to him.

MR. JUSTICE JACKSON: Submitted it to Hitler?

SPEER: Yes, to Hitler.

MR. JUSTICE JACKSON: What did Hitler say on that occasion?

SPEER: Hitler was unusually excited about the contents of the telegram, and said quite plainly what he thought about Göring. He said that he had known for some time that Göring had failed, that he was corrupt, and that he was a drug addict. I was extremely shaken, because I felt that if the head of the State had known this for such a long time, then it showed a lack of responsibility on his

part to leave such a man in office, when the lives of countless people depended on him. It was typical of Hitler's attitude towards the entire problem, however, that he followed his statement up by saying: "But let him negotiate the capitulation all the same."

MR. JUSTICE JACKSON: Did he say why he was willing to let Göring negotiate the capitulation?

SPEER: No. He said in an offhand manner: "It doesn't matter anyway who does it." He expressed all his disregard for the German nation in the way he said this.

MR. JUSTICE JACKSON: That is, his attitude was that there was nothing left worth saving, so let Göring work it out. Is that a fair statement of his position?

SPEER: That was my impression, yes.

MR. JUSTICE JACKSON: Now, this policy of driving Germany to destruction after the war was lost had come to weigh on you to such a point that you were a party to several plots, were you not, in an attempt to remove the people who were responsible for the destruction, as you saw it, of your country?

SPEER: Yes. But I want to add . . .

MR. JUSTICE JACKSON: There were more plots than you have told us about, weren't there?

SPEER: During that time it was extremely easy to start a plot. One could accost practically any man in the street and tell him what the situation was, and then he would say: "This is insane"; and if he had any courage he would place himself at your disposal. Unfortunately, I had no organization behind me which I could call upon and give orders to, or designate who should have done this or that. That is why I had to depend on personal conversations to contact all kinds of people. But I do want to say that it was not as dangerous as it looks here because actually the unreasonable people who were still left only amounted perhaps to a few dozen. The other 80 million were perfectly sensible as soon as they knew what it was all about.

MR. JUSTICE JACKSON: Perhaps you had a sense of responsibility for having put the 80 million completely in the hands of the Führer Principle. Did that occur to you, or does it now, as you look back on it?

SPEER: May I have the question repeated, because I did not understand its sense.

MR. JUSTICE JACKSON: You have 80 million sane and sensible people facing destruction; you have a dozen people driving them on to destruction and they are unable to stop it. And I ask

if you have a feeling of responsibility for having established the Führer Principle, which Göring has so well described for us, in Germany?

SPEER: I, personally, when I became Minister in February 1942, placed myself at the disposal of this Führer Principle. But I admit that in my organization I soon saw that the Führer Principle was full of tremendous mistakes, and so I tried to weaken its effect. The terrible danger of the authoritarian system, however, became really clear only at the moment when we were approaching the end. It was then that one could see what the principle really meant, namely, that every order should be carried out without criticism. Everything that has become known during this Trial in the way of orders carried out without any consideration, finally proved—for example the carrying-out of the order to destroy the bridges in our own country—to be a mistake or a consequence of this authoritarian system. The authoritarian system—or let me put it like this—upon the collapse of the authoritarian system it became clear what tremendous dangers there are in a system of that kind, quite apart from the personality of Hitler. The combination of Hitler and this system, then, brought about these terrible catastrophes in the world.

MR. JUSTICE JACKSON: Well, now—Hitler is dead; I assume you accept that—and we ought to give the devil his due. Isn't it a fact that in the circle around Hitler there was almost no one who would stand up and tell him that the war was lost, except yourself?

SPEER: That is correct to a certain extent. Among the military leaders there were many who, each in his own sphere, told Hitler quite clearly what the situation was. Many commanders of army groups, for instance, made it clear to him how catastrophic developments were, and there were often fierce arguments during the discussions on the situation. Men like Guderian and Jodl, for instance, often talked openly about their sectors in my presence, and Hitler could see quite well what the general situation was like. But I never observed that those who were actually responsible in the group around Hitler, ever went to him and said, "The war is lost." Nor did I ever see these people who had responsibility endeavor to unite in undertaking some joint step with Hitler. I did not attempt it for my part either, except once or twice, because it would have been useless, since at this stage, Hitler had so intimidated his closest associates that they no longer had any wills of their own.

MR. JUSTICE JACKSON: Well, let us take the Number 2 man, who has told us that he was in favor of fighting to the very finish. Were you present at a conversation between Göring and General Galland, in which Göring, in substance, forbade Galland to report the disaster that was overtaking Germany?

SPEER: No; in that form, that is not correct. That was another conference.

MR. JUSTICE JACKSON: Well, tell us what there is about General Galland's conversation with Göring, as far as you know it.

SPEER: It was at the Führer's headquarters in East Prussia in front of Göring's train. Galland had reported to Hitler that enemy fighter planes were already escorting bomber squadrons as far as Liége and that it was to be expected that in the future the bomber units would travel still farther from their bases escorted by fighters. After a discussion with Hitler on the military situation Göring upbraided Galland and told him with some excitement that this could not possibly be true, that the fighters could not go as far as Liége. He said that from his experience as an old fighter pilot he knew this perfectly well. Thereupon Galland replied that the fighters were being shot down, and were lying on the ground near Liége. Göring would not believe this was true. Galland was an outspoken man who told Göring his opinion quite clearly and refused to allow Göring's excitement to influence him. Finally Göring, as Supreme Commander of the Air Force, expressly forbade Galland to make any further reports on this matter. It was impossible, he said, that enemy fighters could penetrate so deeply in the direction of Germany, and so he ordered him to accept that as being true. I continued to discuss the matter afterward with Galland and Galland was actually later relieved by Göring of his duties as Commanding General of Fighters. Up to this time Galland had been in charge of all the fighter units in Germany. He was the general in charge of all the fighters within the High Command of the Air Force.

THE PRESIDENT: What is the date of that?

MR. JUSTICE JACKSON: I was going to ask.

SPEER: It must have been toward the end of 1943.

THE PRESIDENT: Mr. Justice Jackson, perhaps we had better adjourn now.

[A recess was taken.]

MR. JUSTICE JACKSON: If it please the Tribunal, I wanted to ask you whether it was known in the days when you were struggling for manpower enough to make armaments for Germany, that Göring was using manpower to collect art and transport art for his own purposes. Was that known to you at the time?

SPEER: He did not need many workers for that purpose.

MR. JUSTICE JACKSON: Well, very few were very valuable, were they not?

SPEER: The art treasures were valuable, not the workers.

MR. JUSTICE JACKSON: To him?

SPEER: Yes.

MR. JUSTICE JACKSON: Well, let me ask you about your efforts in producing, and see how much difficulty you were having. Krupp's was a big factor in the German armament production, was it not?

SPEER: Yes.

MR. JUSTICE JACKSON: The biggest single unit, wouldn't you say?

SPEER: Yes, but not—just to the extent I said yesterday. It produced few guns and armaments, but it was a big concern, one of the most respected ones in the armament industry.

MR. JUSTICE JACKSON: But you had prevented, as far as possible, the use of resources and manpower for the production of things that were not useful for the war, is not that true?

SPEER: That is true.

MR. JUSTICE JACKSON: And the things which were being created, being built in Krupp's, whether they were guns or other objects, were things which were essential to carrying on the economy or to conducting the war? That would be true, would it not?

SPEER: Generally speaking one can say that in the end every article which in wartime is produced in the home country, whether it is a pair of shoes for the workers, or clothing, or coal is, of course—is made to assist in the war effort. That has nothing to do with the old conception, which has long since died out, and which we find in the Geneva Prisoner of War Convention.

MR. JUSTICE JACKSON: Well, at the moment I am not concerned with the question of the application of the Geneva Convention. I want to ask you some questions about your efforts to produce essential goods, whether they were armament or not armament, and the conditions that this regime was imposing upon labor and adding, as I think, to your problem of production. I think you can give us some information about this. You were frequently at the Krupp plant, were you not?

SPEER: I was at the Krupp plant five or six times.

MR. JUSTICE JACKSON: You had rather close information as to the progress of production in the Krupp plant, as well as others?

SPEER: Yes, when I went to visit these plants, it was mostly in order to see how we could do away with the consequences of air attacks. It was always shortly after air raids, and so I got an idea of the production. As I worked hard I knew a lot about these problems, right down to the details.

MR. JUSTICE JACKSON: Krupp also had several labor camps, did they not?

SPEER: Of course, Krupp had labor camps.

MR. JUSTICE JACKSON: Krupp was a very large user of both foreign labor and prisoners of war?

SPEER: I cannot give the percentage, but no doubt Krupp did employ foreign workers and prisoners of war.

MR. JUSTICE JACKSON: Well, I may say to you that we have investigated the Krupp labor camps, and from Krupp's own charts it appears that in 1943 they had 39,245 foreign workers and 11,234 prisoners of war, and that this steadily increased until in September 1944 Krupp had 54,990 foreign workers and 18,902 prisoners of war.

Now, would that be somewhere near what you would expect from your knowledge of the industry?

SPEER: I do not know the details. I do not know the figures of how many workers Krupp employed in all. I am not familiar with them at the moment. But I believe that the percentage of foreign workers at Krupp was about the same as in other plants and in other armament concerns.

MR. JUSTICE JACKSON: And what would you say that percentage was?

SPEER: That varied a great deal. The old established industries which had their old regular personnel had a much lower percentage of foreign workers than the new industries which had just grown up and which had no old regular personnel. The reason for this was that the young age groups were drafted into the Armed Forces and therefore the concerns which had a personnel of older workers still retained a large percentage of the older workers. Therefore the percentage of foreign workers in Army armaments, if you take it as a whole and as one of the older industries, was lower than the percentage of foreign workers in air armaments, because that was a completely new industry which had no old regular personnel.

But with the best will in the world I cannot give you the percentage.

MR. JUSTICE JACKSON: Now, the foreign workers who were assigned to Krupp—let us use Krupp as an example—were housed in labor camps and under guard, were they not?

SPEER: I do not believe that they were under guard, but I cannot say. I do not want to dodge giving information here, but I had no time to worry about such things on my visits. The things I was concerned about when I went to a factory were in an entirely different sphere. In all my activities as Armament Minister I never once visited a labor camp, and cannot, therefore, give any information about them.

MR. JUSTICE JACKSON: Well now, I am going to give you some information about the labor camp at Krupp's, and then I am going to ask you some questions about it. And I am not attempting to say that you were personally responsible for these conditions. I merely give you the indications as to what the regime was doing and I am going to ask you certain questions as to the effect of this sort of thing on your work of production.

Are you familiar with Document D-288, which is United States Exhibit 202, the affidavit of Dr. Jäger, who was later brought here as a witness?

SPEER: Yes, but I consider that somewhat exaggerated.

MR. JUSTICE JACKSON: You don't accept that?

SPEER: No.

MR. JUSTICE JACKSON: Well, you have no personal knowledge of the conditions. What is the basis of your information that Dr. Jäger's statement is exaggerated?

SPEER: If such conditions had existed, I should probably have heard of them, since when I visited plants the head of the plant naturally came to me with his biggest troubles. These troubles occurred primarily after air raids when, for example, both the German workers and foreign workers had no longer any proper shelter. This state of affairs was then described to me, so that I know that what is stated in the Jäger affidavit cannot have been a permanent condition. It can only have been a condition caused temporarily by air raids, for a week or a fortnight, and which was improved later on. It is clear that after a severe air raid on a city all the sanitary installations, the water supply, gas supply, electricity, and so on, were out of order and severely damaged, so that temporarily there were very difficult conditions.

MR. JUSTICE JACKSON: I remind you that Dr. Jäger's affidavit relates to the time of October 1942, and that he was a witness here. And, of course, you are familiar with his testimony.

SPEER: Yes.

MR. JUSTICE JACKSON: Well now, I call your attention to a new document, which is D-361, and would become United States Exhibit 893, a document signed by the office chief of the locomotive construction works, describing conditions of his labor supply, foreign labor.

And I am not suggesting—I repeat I am not suggesting that this was your responsibility. I am suggesting it is the responsibility of the regime. I should like to read this despite its considerable length. This is dated at the boilermaking shop, 25 February 1942, addressed to Hupe by way of Winters and Schmidt.

"I received the enclosed letter of the 18th of this month from the German Labor Front, sent to my private address, inviting me to the Office of the German Labor Front. I tried to settle the business, which I did not know about, by telephone. The answer from the German Labor Front was that the matter was very important and called for my personal appearance. Thereupon I asked Herr Jüngerich of the Department for Social Labor Matters whether I had to go. He answered, 'You probably do not have to, but it would be better if you went.' About 9:50 I went to Room 20 at the place indicated and met Herr Prior.

"The following provided the subject of this conversation, which Herr Prior carried on in a very excited manner, and which lasted about half an hour:

"On the 16th, 23 Russian prisoners of war were assigned to Number 23 Boiler Shop. The people came in the morning without bread and tools. During both breaks the prisoners of war crept up to the German workers and begged for bread, pitifully pointing out their hunger. (For lunch on the first day the factory was able to distribute among the Russians rations which remained over from French PW's.) In order to alleviate these conditions, I went to the Weidkamp kitchen on the 17th, on instructions from Herr Theile, and talked to the head of the kitchen, Fräulein Block, about the provision of the midday meal. Fräulein Block promised me the food immediately, and also lent me the 22 sets of eating utensils which I asked for. At the same time I asked Fräulein Block to give any food left over by the 800 Dutchmen messing there to our Russian PW's at noon until further notice. Fräulein Block promised to do this too, and the following noon she sent down a container of milk soup as an extra. The following noon the ration was short in quantity. Since a few Russians had collapsed already, I telephoned Fräulein Block and asked for an increase in the food, as the special ration had ceased from the second day onwards. As my telephone conversation

was unsuccessful, I again visited Fräulein Block personally. Fräulein Block refused in a very abrupt manner to give any further special ration.

"Now, regarding the discussion in detail, Herr Prior, two other gentlemen of the DAF and Fräulein Block, head of the Weidkamp kitchen, were present in the room. Herr Prior commenced and accused me, gesticulating, and in a very insulting manner, of having taken the part of the Bolsheviks in a marked way. He referred to the law paragraphs of the Reich Government which spoke against it. I was unfortunately not clear about the legal position, otherwise I would have left the conference room immediately. I then tried to make it clear to Herr Prior, with special emphasis, that the Russian PW's were assigned to us as workers and not as Bolsheviks; the people were starved and not in a position to perform the heavy work with us in the boiler shop which they were supposed to do; sick people are a dead weight to us and not a help to production. To this remark Herr Prior stated that if one was no good, then another was; that the Bolsheviks were a soulless people; and if 100,000 of them died, another 100,000 would replace them. On my remarking that with such a coming and going we would not attain our goal, namely the delivery of locomotives to the Reichsbahn, who were continually cutting down the time limit, Herr Prior said, 'Deliveries are only of secondary importance here.'

"My attempts to get Herr Prior to understand our economic needs were not successful. In closing, I can only say that as a German I know our relations to the Russian prisoners of war exactly, and in this case I acted only on behalf of my superiors and with the view to the increase in production which is demanded from us."

It is signed, "Söhling, Office Chief, Locomotive Construction Works."

And there is added this letter as a part of the communication, signed by Theile:

"I have to add the following to the above letter:

"After the Russian PW's had been assigned to us on the 16th of this month by labor supply, I got into touch with Dr. Lehmann immediately about their food. I learned from him that the prisoners received 300 gr. of bread each between 0400 and 0500 hours. I pointed out that it was impossible to last until 1800 hours on this ration of bread, whereupon Dr. Lehmann said that the Russians must not be allowed to get used to western European feeding. I replied that the PW's could not do the work required of them in the boiler

shop on that food, and that it was not practical for us to have these people in the works any longer under such conditions. At the same time I demanded that if the Russians continued to be employed, they should be given a hot midday meal, and that if possible the bread ration should be split so that one-half was distributed early in the morning and the second half during our breakfast break. My suggestion has already been carried out by us with the French PW's and has proved to be very practicable and good.

"Unfortunately, however, Dr. Lehmann took no notice of my suggestion, and on this account I naturally had to take matters into my own hands and therefore told Herr Söhling to get the feeding of the Russian PW's organized on exactly the same lines as for the French PW's, so that the Russians could as soon as possible carry out the work they were supposed to do. For the whole thing concerns an increase in production such as is demanded from us by the Minister of munitions and armaments and by the DAF."

Now, I ask you, in the first place, if the position of the chief of the locomotive construction works was not entirely a necessary position in the interests of production?

SPEER: It is clear that a worker who has not enough food cannot achieve a good work output. I already said yesterday that every head of a plant, and I too at the top, was naturally interested in having well-fed and satisfied workers, because badly fed, dissatisfied workers make more mistakes and produce poor results.

I should like to comment on this document. The document is dated 25 February 1942. At that time there were official instructions that the Russian workers who came to the Reich should be treated worse than the western prisoners of war and the western workers. I learned of this through complaints from the heads of concerns. In my document book, there is a Führer protocol which dates from the middle of March 1942—that is, 3 or 4 weeks after this document—in which I called Hitler's attention to the fact that the feeding both of Russian prisoners of war and of Russian workers was absolutely insufficient and that they would have to be given an adequate diet, and that moreover the Russian workers were being kept behind barbed wire like prisoners of war and that that would have to be stopped also. The protocol shows that in both cases I succeeded in getting Hitler to agree that conditions should be changed and they were changed.

I must say furthermore that it was really to Sauckel's credit that he fought against a mountain of stupidity and did everything so that foreign workers and prisoners of war should be treated better and receive decent food.

MR. JUSTICE JACKSON: Well, we will go on with the conditions later. Because I am going to ask you, if you are not responsible and Sauckel is not responsible, who is responsible for these conditions, and you can keep it in mind that is the question that we are coming up to here.

I will show you a new document, which is a statement, D-398, which would be Exhibit USA 894-A, taken by the British-American team in the investigation of this work camp at Krupp's.

Well, D-321. I can use that just as well. We will use Document D-321, which becomes 893.

THE PRESIDENT: 894 was the last number you gave us. What number is this document that you are now offering?

MR. JUSTICE JACKSON: 398 was 894. 321 will be 895.

Now, this relates to the—this is an employee of the Reich Railways. None of our investigation, I may say, is based upon the statements of the prisoners themselves.

"I, the undersigned, Adam Schmidt, employed as Betriebswart on the Essen-West Railway Station and residing . . . state voluntarily and on oath:

"I have been employed by the Reich Railways since 1918 and have been at Essen-West Station since 1935. In the middle of 1941 the first workers arrived from Poland, Galicia, and the Polish Ukraine. They came to Essen in trucks in which potatoes, building materials and also cattle had been transported, and were brought to perform work at Krupp's. The trucks were jammed full with people. My personal view was that it was inhuman to transport people in such a manner. The people were packed closely together and they had no room for free movement. The Krupp overseers laid special value on the speed with which the slave workers got in and out of the trucks. It was enraging for every decent German who had to watch this to see how the people were beaten and kicked and generally maltreated in a brutal manner. In the very beginning when the first transport arrived we could see how inhumanly these people were treated. Every truck was so overfilled that it was incredible that such a number of people could be jammed into one. I could see with my own eyes that sick people who could scarcely walk (they were mostly people with foot trouble, or with injuries, and people with internal trouble) were nevertheless taken to work. One could see that it was sometimes difficult for them to move. The same can be said of the Eastern Workers and PW's who came to Essen in the middle of 1942."

He then describes their clothing and their food. In the interest of time, I will not attempt to read the entire thing.

Do you consider that that, too, is an exaggerated statement?

SPEER: When the workers came to Germany from the East, their clothing was no doubt bad, but I know from Sauckel that while he was in office a lot was done to get them better clothes, and in Germany many of the Russian workers were brought to a considerably better condition than they had previously been in in Russia. The Russian workers were quite satisfied in Germany. If they arrived here in rags, that does not mean that that was our fault. We could not use ragged workers with poor shoes in our industry, so conditions were improved.

MR. JUSTICE JACKSON: Well, now, I would like to call your attention to D-398.

THE PRESIDENT: Well, before you pass from that, what do you say about the conditions of the transports? The question you were asked was whether this was an exaggerated account. You have not answered that except in reference to clothing.

SPEER: Mr. President, I cannot give any information about this transport matter. I received no reports about it.

MR. JUSTICE JACKSON: Well, I will ask you about Exhibit 398, which becomes USA-894. I mean Document 398, which becomes Exhibit 894, a statement by Höfer, living in Essen:

> "From April 1943 I worked with Löwenkamp every day in Panzer Shop 4. Löwenkamp was brutal to the foreigners. He confiscated food which belonged to the PW's and took it home. Every day he maltreated Eastern Workers, Russian PW's, French, Italian, and other foreign civilians. He had a steel cabinet built which was so small that one could hardly stand in it. He locked up foreigners in the box, women too, for 48 hours at a time without giving the people food.
>
> "They were not released even to relieve nature. It was forbidden for other people, too, to give any help to the persons locked in, or to release them. While clearing a concealed store he fired on escaping Russian civilians without hitting any of them.
>
> "One day, while distributing food, I saw how he hit a French civilian in the face with a ladle and made his face bleed. Further, he delivered Russian girls without bothering about the children afterwards. There was never any milk for them so the Russians had to nourish the children with sugar water. When Löwenkamp was arrested he wrote two letters and sent them to me through his wife. He tried to make out that he never beat people."

There is a good deal more of this, but I will not bother to put it into the record.

Is it your view that that is exaggerated?

SPEER: I consider this affidavit a lie. I would say that among German people such things do not exist, and if such individual cases occurred they were punished. It is not possible to drag the German people in the dirt in such a way. The heads of concerns were decent people too, and took an interest in their workers. If the head of the Krupp plant heard about such things, he certainly took steps immediately.

MR. JUSTICE JACKSON: Well, what about the steel boxes? The steel box couldn't have been built? Or don't you believe the steel-box story?

SPEER: No, I do not believe it; I mean I do not believe it is true. After the collapse in 1945 a lot of affidavits were certainly drawn up which do not fully correspond to the truth. That is not your fault. It is the fault of—after a defeat, it is quite possible that people lend themselves to things like that.

MR. JUSTICE JACKSON: Well, I would like to have you examine Document 258, and I attach importance to this as establishing the SS as being the guards:

> "The camp inmates were mostly Jewish women and girls from Hungary and Romania. The camp inmates were brought to Essen at the beginning of 1944 and were put to work at Krupp's. The accommodation and feeding of the camp prisoners was beneath all dignity. At first the prisoners were accommodated in simple wooden huts. These huts were burned down during an air raid and from that time on the prisoners had to sleep in a damp cellar. Their beds were made on the floor and consisted of a straw-filled sack and two blankets. In most cases it was not possible for the prisoners to wash themselves daily, as there was no water. There was no possibility of having a bath. I could often observe from the Krupp factory, during the lunch break, how the prisoners boiled their under-clothing in an old bucket or container over a wood fire, and cleaned themselves. An air-raid trench served as shelter, while the SS guards went to the Humboldt shelter, which was bombproof. Reveille was at 5 a. m. There was no coffee or any food served in the morning. They marched off to the factory at 5.15 a. m. They marched for three-quarters of an hour to the factory, poorly clothed and badly shod, some without shoes, and covered with a blanket, in rain or snow. Work began at 6 a. m. The lunch break was from 12 to 12.30. Only during the break was it at all possible for the prisoners

to cook something for themselves from potato peelings and other garbage. The daily working period was one of 10 or 11 hours. Although the prisoners were completely undernourished, their work was very heavy physically. The prisoners were often maltreated at their work benches by Nazi overseers and female SS guards. At 5 or 6 in the afternoon they were marched back to camp. The accompanying guards consisted of female SS who, in spite of protests from the civil population, often maltreated the prisoners on the way back with kicks, blows, and scarcely repeatable words. It often happened that individual women or girls had to be carried back to the camp by their comrades owing to exhaustion. At 6 or 7 p. m. these exhausted people arrived back in camp. Then the real meal was distributed. This consisted of cabbage soup. This was followed by the evening meal of water soup and a piece of bread which was for the following day. Occasionally the food on Sundays was better. As long as it existed there was never any inspection of the camp by the firm of Krupp. On 13 March 1945 the camp prisoners were brought to Buchenwald Concentration Camp, from there some were sent to work. The camp commandant was SS Oberscharführer Rick. His present whereabouts is unknown."

The rest of it doesn't matter. In your estimation that, I suppose, is also an exaggeration?

SPEER: From the document . . .

DR. FLÄCHSNER: Mr. President . . .

THE PRESIDENT: May I hear the answer. I thought the defendant said something.

DR. FLÄCHSNER: May I call the attention of the Court to the document itself, of which I have only a copy? It is headed "Sworn on oath before a military court," and there is an ordinary signature under it. It does not say that it is an affidavit or a statement in lieu of oath, or any other such thing, it says only, "Further inquiries must be made," and it is signed by Hubert Karden. That is apparently the name of the man who was making the statement. Then there is another signature, "Kriminalassistent Z. Pr." That is a police official who is on probation and who may later have the chance of becoming a candidate in the criminal service. He has signed it. Then there is another signature, "C. E. Long, Major, President." There is not a word in this document to the effect that any of these three people want to vouch for the contents of this as an affidavit. I do not believe this document can be used as an affidavit in that sense.

THE PRESIDENT: Yes, Mr. Justice Jackson? Do you wish to say anything?

MR. JUSTICE JACKSON: I—the document shows for itself. I am not—as I have pointed out to this witness, I am giving him the result of an investigation. I am not prosecuting him with personal responsibility for these conditions. I intend to ask him some questions about responsibility for conditions in the camp.

THE PRESIDENT: Well, there is a statement at the top of the copy that I have got, "Sworn on oath before a military court."

MR. JUSTICE JACKSON: Yes, they were taken in Essen, in this investigation. And of course, if I were charging this particular defendant with the responsibility there might be some argument about it. They come under the head—they clearly come under the head of the Charter, which authorizes the receipt here of proceedings of other courts.

THE PRESIDENT: Have you got the original document here?

MR. JUSTICE JACKSON: Yes.

[A document was submitted to the Tribunal.]

THE PRESIDENT: The Tribunal sees no objection to the document being used in cross-examination.

Did you give it an exhibit number?

MR. JUSTICE JACKSON: I should have; it is USA-896.

THE PRESIDENT: Yes.

MR. JUSTICE JACKSON: *[Turning to the defendant.]* I now want to call your attention to Exhibit Number 382.

SPEER: I wanted to comment on the document.

THE PRESIDENT: Mr. Justice Jackson, there are some photographs which have been put before us. Are they identified and do they form part of an exhibit?

MR. JUSTICE JACKSON: They form part of the exhibit which I am now offering.

THE PRESIDENT: I see.

MR. JUSTICE JACKSON: But the witness desires to comment on the last document, and I will listen to that before we go ahead.

Yes?

SPEER: First I should like to say, as you have so often mentioned my nonresponsibility, that if in general these conditions had been true, on the basis of my statement yesterday I should consider myself responsible. I refuse to evade responsibility. But the conditions were not what they are said to have been here. There are only individual cases which are quoted.

As for this document I should only like to say from what I have seen of it that this seems to concern a concentration camp, one of the small concentration camps near the factories. The factories could not inspect these camps. That is why the sentence is quite true where it says that no factory representative ever saw the camp. The fact that there were SS guards also shows that it was a concentration camp.

If the question which you asked me before, as to whether the labor camps were guarded—those for foreign workers—if that refers to this document, then your conclusion was wrong. For as far as I know, the other labor camps were not guarded by SS or by any other organizations.

My position is such that I feel it is my duty to protect the heads of plants from any injustice which might be done them. The head of a plant could not bother about the conditions in such a camp. I cannot say whether conditions were as described in this camp. We have seen so much material on conditions in concentration camps during the Trial.

MR. JUSTICE JACKSON: Now I will ask to have you shown Exhibit Number D-382—I should say Document D-382—which would be United States Exhibit 897. Now that is the statement of several persons as to one of those steel boxes which stood in the foreign workers' camp in the grounds of Number 4 Armor Shop, and of those in the Russian camp. I do not know that it is necessary to read the complete descriptions.

Is that merely an individual instance, or what is your view of that circumstance?

SPEER: What is pictured here is quite a normal locker as was used in every factory. These photographs have absolutely no value as evidence.

MR. JUSTICE JACKSON: Very well. I will ask to have you shown Exhibit D-230. Together with D-230 is an interoffice record of the steel switches, and the steel switches which have been found in the camp will be shown to you. Eighty were distributed, according to the reports.

SPEER: Shall I comment on this?

MR. JUSTICE JACKSON: If you wish.

SPEER: Yes. Those are nothing but replacements for rubber truncheons. We had no rubber; and for that reason, the guards probably had something like this.

MR. JUSTICE JACKSON: That is the same inference that I drew from the document.

SPEER: Yes, but the guards did not immediately use these steel switches any more than your police use their rubber truncheons. But they had to have something in their hands. It is the same thing all over the world.

MR. JUSTICE JACKSON: Well, we won't argue that point.

SPEER: I am not an expert. I only assume that that is the case. I cannot testify on oath that that was the case. That was only an argument.

THE PRESIDENT: Did you give a number to that?

MR. JUSTICE JACKSON: 898, Your Honor.

Now, 899 would be our Document D-283, which is a 1943 report from the Krupp hospitals taken from the files of Krupp's.

"The subject:

"Cases of Deaths of Eastern Workers.

"Fifty-four Eastern Workers have died in the hospital in Lazarettstrasse, 4 of them as a result of external causes and 50 as a result of illness.

"The causes of death in the case of these 50 Eastern Workers who died of illnesses were the following: Tuberculosis, 36 (including 2 women); malnutrition, 2; internal hemorrhage, 1; disease of the bowels, 2; typhoid fever, 1 (female); pneumonia, 3; appendicitis, 1 (female); liver trouble, 1; abscess of the brain, 1. This list therefore shows that four-fifths died of tuberculosis and malnutrition."

Now, did you have any reports from time to time as to the health conditions of the labor which was engaged in your production program?

SPEER: First I should like to comment on the document. The document does not show the total number of the workers to which the number of deaths refers, so that one cannot say whether that is an unnaturally high proportion of illness. At a session of the Central Planning Board which I read here again, I observed it was said that among the Russian workers there was a high rate of tuberculosis. I do not know whether you mean that. That was a remark which Weiger made to me. But presumably through the health offices we tried to alleviate these conditions.

MR. JUSTICE JACKSON: There was an abnormally high rate of deaths from tuberculosis; there is no doubt about that, is there?

SPEER: I do not know whether that was an abnormal death rate. But there was an abnormally high rate of tuberculosis at times.

MR. JUSTICE JACKSON: Well, the exhibit does not show whether the death rate itself was abnormally high, but it shows

an abnormal proportion of deaths from tuberculosis among the total deaths, does it not? Eighty percent deaths from tuberculosis is a very high incidence of tuberculosis, is it not?

SPEER: That may be. I cannot say from my own knowledge.

MR. JUSTICE JACKSON: Now I would like to have you shown...

THE PRESIDENT: Did you give that a number? That would be 899, would it not?

MR. JUSTICE JACKSON: 899, Your Honor.

Now, let me ask you to be shown Document D-335. This is a report from the files of Krupp, dated at Essen on 12 June 1944, directed to the "Gau Camp Physician, Herr Dr. Jäger," and signed by Stinnesbeck:

"In the middle of May I took over the medical supervision of the PW Camp 1420 in the Nörggerathstrasse. The camp contains 644 French PW's.

"During the air raid on 27 April of this year the camp was largely destroyed and at the moment conditions are intolerable.

"315 prisoners are still accommodated in the camp. 170 of these are no longer in huts, but in the tunnel in Grunerstrasse on the Essen-Mülheim railway line. This tunnel is damp and is not suitable for continued accommodation of human beings. The rest of the prisoners are accommodated in 10 different factories in Krupp's works.

"Medical attention is given by a French military doctor who takes great pains with his fellow countrymen. Sick people from Krupp's factories must be brought to the sick parade too. This parade is held in the lavatory of a burned-out public house outside the camp. The sleeping accommodations of the four French medical orderlies is in what was the urinal room. There is a double tier wooden bed available for sick bay patients. In general, treatment takes place in the open. In rainy weather it has to be held in this small room. These are insufferable conditions! There are no chairs, tables, cupboards, or water. The keeping of a register of sick is impossible.

"Bandages and medical supplies are very scarce, although people badly hurt in the works are often brought here for first aid and have to be bandaged before being taken to the hospital. There are many strong complaints about food, too, which the guard personnel confirm as being justified.

"Illness and less manpower must be reckoned with under these circumstances.

"The construction of huts for the accommodation of the prisoners and the building of sick quarters for the proper treatment of the sick persons is urgently necessary.

"Please take the necessary steps.

"(Signed) Stinnesbeck."

SPEER: That is a document which shows what conditions can be after severe air raids. The conditions were the same in these cases for Germans and foreign workers. There were no beds, no cupboards, and so forth. That was because the camp in which these things had been provided had been burned down. That the food supply was often inadequate in the Ruhr district during this period was due to the fact that attacks from the air were centered on communication lines, so that food transports could not be brought into the Ruhr to the necessary extent. These were temporary conditions which we were able to improve when the air raids ceased for a time. When conditions became even worse after September or October of 1944, or rather after November of 1944, we made every effort to give food supplies the priority for the first time over armament needs, so that in view of these difficulties the workers would be fed first of all, while armaments had to stand back somewhat.

MR. JUSTICE JACKSON: Well, then you did make it your business to get food and to see to the conditions of these workers? Do I understand that you did it, that you took steps?

SPEER: It is true that I did so, and I am glad that I did, even if I am to be reproached for it. For it is a universal human obligation when one hears of such conditions to try to alleviate them, even if it is somebody else's responsibility. But the witness Riecke testified here that the whole of the food question was under the direction of the Food Ministry.

MR. JUSTICE JACKSON: And it was an essential part of production, was it not, to keep workers in proper condition to produce? That is elementary, is it not?

SPEER: No. That is wrongly formulated.

MR. JUSTICE JACKSON: Well, you formulate it for me as to what the relation is between the nourishment of workers and the amount of production produced.

SPEER: I said yesterday that the responsibility for labor conditions was divided up between the Food Ministry, the Health Office in the Reich Ministry of the Interior, the Labor Trustee in the office of the Plenipotentiary General for the Allocation of Labor, and so on. There was no comprehensive authority in my hands. In the Reich, because of the way in which our state machine was built up,

we lacked a comprehensive agency in the form of a Reich Chancellor, who would have gathered all these departments together and held joint discussions. But I, as the man responsible for production, had no responsibility in these matters. However, when I heard complaints from factory heads or from my deputies, I did everything to remove the cause of the complaints.

MR. JUSTICE JACKSON: The Krupp works . . .

THE PRESIDENT: Shall we break off now?

MR. JUSTICE JACKSON: Any time you say, Sir.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: The Tribunal wish to hear from defendants' counsel what arrangements they have found it possible to make with reference to the apportionment of time for their speeches.

DR. NELTE: I should like first of all to point out that the defendants' counsel, with whom the Tribunal discussed the question of final defense speeches during an earlier closed session, did not inform the other defendants' counsel, since they were under the impression that the Tribunal would not impose any restrictions on the Defense in this respect. I personally, when I raised my objections, had no knowledge of this discussion, as my colleagues who conferred with you earlier have authorized me to explain.

On the suggestion of the Tribunal, counsel for the individual defendants have discussed the decision announced in the session of 13 June 1946, and I am now submitting to the Tribunal the outcome of the discussion; in doing so, however, I shall have to make certain qualifications, since some of my colleagues are either not present or differ in their opinion on the apportionment of time.

The defendants' counsel are of the opinion that only the conscientious judgment of each counsel can determine the form and length of the final defense pleas in this unusual Trial, notwithstanding the generally recognized right of the Tribunal, as part of its responsibility for guiding the proceedings, to prevent a possible misuse of the freedom of speech. They also believe that, in view of this fundamental consideration and in view of the usual practice of international courts, the Tribunal will understand and approve that the defendants' counsel voice their objection to a preventive restriction of the freedom of speech, for a misuse on their part must not simply be taken as a foregone conclusion. This fundamental attitude is, of course, in accord with the readiness of the Defense to comply with the directives and the wishes of the Tribunal as far as is reconcilable with a proper conception of the defense in each case. Under this aspect the individual defendants' counsel have been asked to make their own estimates of the probable duration of their final pleas. The result of these estimates shows that, despite the limitations counsel have imposed upon themselves, and with due respect to the wishes of the High Tribunal, a total duration of approximately 20 full days in court is required by the Defense.

THE PRESIDENT: Dr. Nelte, the Tribunal asked Defense Counsel for an apportionment of the 14 days between them.

DR. NELTE: I believe, Mr. President, my statement makes clear that it appears impossible to accept that principle. If the Tribunal consider these 14 full days as indisputable, then the entire Defense

will submit to that decision. But so far as I know, it will be quite impossible, under such circumstances, to obtain agreement among Defense Counsel, and considerable danger therefore exists that counsel who make their pleas later will be under pressure of time.

THE PRESIDENT: Yes, I think the Tribunal probably fully understands that you think 14 days—you and your brethren consider that 14 days is too short—but, as I say, what the Tribunal asked for was an apportionment of the time, and there is nothing in what you have said to indicate that you have made any apportionment at all, either of the 14 days or of the 20 days which you propose.

DR. NELTE: The period of 20 days was arrived at when each defendant's counsel had stated the presumed duration of his speech. It would, therefore, be perfectly possible to say that if the Tribunal would approve the duration of 20 days, then we could state our solution for the length of the individual speeches. But it is impossible, in practice, to apportion the time, if the total number of days is only 14. You can rest assured, Mr. President, that we have all gone into the question conscientiously and that we have also reflected on the manner in which individual subjects can be divided among individual defendants' counsel; but the total number of about 20 days appears to us, without wanting to quote a maximum or minimum figure, to be absolutely essential for an apportionment. It is perfectly possible, Mr. President, that in the course of the speeches . . .

THE PRESIDENT: Dr. Nelte, as I have indicated to you, what the Tribunal wanted to know was the apportionment, and presumably you have some apportionment which adds up to the 20 days which you say is required; and the Tribunal would like, if you have such an apportionment, that you should let them see the apportionment, or if you have no such apportionment, then they would wish to hear from each individual counsel how long he thinks he is going to take. If you have got a list, it seems to the Tribunal that you could hand it in.

DR. NELTE: The figures are available and they will be handed to the Tribunal, but some of my colleagues have said that their estimates are only valid on the assumption that no more than a specific number of days was to be granted. That is the point of view of which I said earlier that it differed in some respect. But we all thought that the decision of the Tribunal was only a suggestion, and not a maximum to be apportioned. I hope, Mr. President, that your words now are also to be understood in that way, and that the Tribunal will still consider whether the proposed period of 14 days could not be extended to correspond with the time which we consider necessary.

THE PRESIDENT: What the Tribunal wants is an apportionment of the time as between the various counsel. That is what they asked for and that is what they want; and either we would ask you to give it to us in writing now, or we would ask you, each one of you, to state how long you anticipate you will take in your speech.

DR. NELTE: I think that I may speak on behalf of my colleagues and say that we shall submit our estimates to the Tribunal in writing.

THE PRESIDENT: Dr. Nelte, the Tribunal feels that it would like to have the apportionment now. It gave notice before, yesterday I think it was, that they were wishing to hear defendants' counsel upon the question of the apportionment this afternoon at 2 o'clock; and they would, therefore, like to have that apportionment now.

DR. NELTE: In that case, I can only ask that the Tribunal hear each individual counsel, since naturally I cannot say from memory how each made his estimate.

THE PRESIDENT: You could have had it written down; but if you have not got it written down, no doubt you cannot remember. But perhaps you had better give us what you would take.

DR. NELTE: I estimated 7 hours. My colleague Horn, for Ribbentrop, just tells me he requires 6 hours.

THE PRESIDENT: We will take each counsel in turn, if you please.

Yes, Dr. Stahmer?

DR. OTTO STAHMER (Counsel for Defendant Göring): Seven hours.

THE PRESIDENT: Dr. Sauter?

DR. MARTIN HORN (Counsel for Defendant Von Ribbentrop): May I, on behalf of Dr. Siemers and Dr. Kranzbühler, ask to allot each of them 8 hours?

DR. SAUTER: For the case of Funk, 6 hours, and for the case of Von Schirach, 6 hours.

DR. SERVATIUS: For Sauckel, 5 hours.

THE PRESIDENT: Wait a minute. I cannot write as quickly as all this. Who was it that Dr. Horn wished to represent? Siemers and who else? And how many hours was it?

DR. HORN: Dr. Siemers and Dr. Kranzbühler, 8 hours each.

DR. SERVATIUS: For Sauckel, 5 hours.

DR. KAUFFMANN: For Kaltenbrunner, approximately 4 to 5 hours.

DR. HANNS MARX (Counsel for Defendant Streicher): For Streicher, 4 hours.

DR. SEIDL: For Hess and Frank, 11 hours together.

DR. OTTO PANNENBECKER (Counsel for Defendant Frick): For Frick, 5 hours. I remember from the list that Dr. Bergold wants 3 hours for Bormann. Dr. Bergold is not present, but I remember that the list said 3 hours.

DR. RUDOLF DIX (Counsel for Defendant Schacht): For Schacht, 5 hours.

PROFESSOR DR. FRANZ EXNER (Counsel for Defendant Jodl): For Jodl, 5 hours.

DR. KUBUSCHOK: For Papen, approximately 5 hours.

DR. STEINBAUER: For Dr. Seyss-Inquart, 5 hours.

DR. FLÄCHSNER: For Speer, 4 hours.

DR. VON LÜDINGHAUSEN: For myself, Mr. President, 8 hours. For Professor Jahrreiss, who before the final pleas will deal with a technical subject, 4 hours.

THE PRESIDENT: What will Professor Jahrreiss speak about?

DR. VON LÜDINGHAUSEN: About a subject approved by the Tribunal, namely the general question of international law.

DR. SEIDL: The defense counsel for the Defendant Rosenberg said that he would require 8 hours.

DR. FRITZ: Mr. President, I would ask the Tribunal to take into consideration that the case of Fritzsche has not yet been presented and that therefore I cannot give exact information; but I estimate approximately 4 hours.

THE PRESIDENT: Now, Dr. Nelte, the Tribunal would like to know first of all whether counsel propose to write down and then read their speeches.

DR. NELTE: As far as I have been informed, all defense counsel will write down their speeches before delivery. Whether they will actually read every word of the text, or whether they will read parts of it and submit other parts, is not yet certain.

THE PRESIDENT: Have they considered whether they will submit them for translation, because, as the Tribunal has already pointed out, it would be much more convenient for the members of the Tribunal who do not read German to have a translation before them. It would not only greatly assist the Tribunal, but the defendants themselves if they do that.

DR. NELTE: This question has not yet been settled. We discussed it, but have so far not come to a final conclusion. We think that the

short time now available may perhaps make it impossible to translate the manuscripts into all four languages.

THE PRESIDENT: The defendants' counsel, of course, understand that the speeches, if they are submitted for translation, will not be communicated to anybody until the speech is actually made. So they will not be given beforehand either to the Tribunal or the Prosecution or anything of that sort, so that the speech will remain entirely private until it is made. And the second thing is that, of course, a great number of the speeches will be delayed by the counsel who precede them and, therefore, there will be very considerable time during either the 14 days or some longer period, if such a longer period is given, which will enable the speeches to be translated, and Defense Counsel will appreciate that if their speeches are written down they can tell exactly how long they will take to deliver, or almost exactly.

And there is one other thing I want to bring to their attention. There are 20 or 21 defendants, and naturally, there are a variety of subjects which are common to them all; and there ought to be, therefore, an opportunity, as it appears to the Tribunal, for counsel to divide up the subjects to some extent between them and not each one to deal with subjects which have been dealt with already, any more than they ought to have been dealt with in evidence over and over again; and I do not know whether Counsel for Defense have fully considered that in making this estimate of the time they laid before us.

Anyway, the Tribunal hopes that they will address their minds to these three matters: First of all, as to whether they can submit their speeches for translation in order to help the Tribunal; secondly, whether they will be able, when they have got their speeches written down, to assess the time accurately; and thirdly, whether they cannot apportion the subjects to some extent among them so that we shall not have to listen to the same subjects over and over again.

I do not know whether the Prosecution would wish to say anything. The Tribunal has said, I think, in the order which we made with reference to this question of limitation of time, that they anticipated that the Prosecution would take only 3 days. Perhaps it would be convenient to hear from the Prosecution whether that is an accurate estimate.

SIR DAVID MAXWELL-FYFE: Yes, My Lord, the Prosecution do not ask for any more than the 3 days. It might conceivably be a little less, but we do not ask for any more than the 3 days.

MR. JUSTICE JACKSON: I should like, Your Honor, to call your attention to this. I hope it is not expected that we will mimeograph and run off on our mimeograph machines, 20 days of

speeches or anything of that sort. We simply cannot be put under that kind of a burden. I think it is—a citizen of the United States is expected to argue his case in the highest court of the land in one hour, and counsel's own clients here have openly scoffed at the amount of time that has been asked. This is not a sensible amount of time to give to this case, and I must protest against being expected to mimeograph 20 days of speeches. It really is not possible.

THE PRESIDENT: The Tribunal would like to know whether the Prosecution intend to let them have copies of their speeches at the time that they are delivered.

SIR DAVID MAXWELL-FYFE: As far as the closing speech of the Attorney General is concerned, we certainly did expect and hope to give the Tribunal copies of the speech.

THE PRESIDENT: And translations?

SIR DAVID MAXWELL-FYFE: Yes, that will be done. My Lord, I just wondered, out of optimism—it was Dr. Nelte who said that it would take a long time to translate. I know, as far as translating into English is concerned, we had the problem of a 76-page speech the other day, and that was done by our own translators in one day. So I hope that perhaps Dr. Nelte has been a little pessimistic about that side of the problem.

THE PRESIDENT: The Tribunal will consider the matter.

Now, the Tribunal will go on with the cross-examination.

[The Defendant Speer resumed the stand.]

MR. JUSTICE JACKSON: I think perhaps, Your Honor, the photographs in evidence are left a little unintelligible, if the record does not show the description of them. I shall read it briefly.

"Torture cabinets which were used in the foreign workers' camp in the grounds of Number 4 Armor Shop and those in the dirty neglected Russian Camp were shown to us, and we depose the following on oath:

"Photograph 'A' shows an iron cupboard which was specially manufactured by the firm of Krupp to torture Russian civilian workers to an extent that cannot possibly be described by words. Men and women were often locked into a compartment of the cupboard, in which hardly any man could stand up for long periods. The measurements of this compartment are: Height 1.52 meters; breadth and depth 40 to 50 centimeters each. Frequently even two people were kicked and pressed into one compartment. The Russian . . ."

I will not read the rest of that.

"Photograph 'B' shows the same cupboard as it looks when it is locked.

"Photograph 'C' shows the cupboard open.

"In Photograph 'D' we see the camp that was selected by the Krupp Directorate to serve as living quarters for the Russian civilian workers. The individual rooms were 2 to 2½ meters wide, 5 meters long, and 2 meters high. In each room up to 16 persons were accommodated in double tier beds." (Document USA-897)

I think that covers it.

THE PRESIDENT: Mr. Justice Jackson, one moment. I think you ought to read the last three lines of the second paragraph, beginning, "At the top of the cupboard . . ."

MR. JUSTICE JACKSON: Oh yes, I am sorry.

"At the top of the cupboard there are a few sievelike air holes through which cold water was poured on the unfortunate victims during the ice-cold winter."

THE PRESIDENT: I think you should read the last three lines of the penultimate paragraph in view of what the defendant said about the evidence.

MR. JUSTICE JACKSON: "We are enclosing two letters which Camp Commandant Löwenkamp had smuggled out of prison in order to induce the undersigned Höfer to give evidence favorable to him."

And perhaps I should read the last:

"The undersigned, Dahm,"—one of the signers—"personally saw how three Russian civilian workers were locked into the cupboard, two in one compartment, after they had first been beaten on New Year's Eve 1945. Two of the Russians had to stay the whole of New Year's Eve locked in the cupboard, and cold water was poured on them as well."

I may say to the Tribunal that we have upwards of a hundred different statements and depositions relating to the investigation of this camp. I am not suggesting offering them, because I think they would be cumulative, and I shall be satisfied with one more, D-313, which would become Exhibit USA-901, which is a statement by a doctor.

THE PRESIDENT: Mr. Justice Jackson, was this camp that you are referring to a concentration camp?

MR. JUSTICE JACKSON: Well, it was, as I understand it, a prisoner-of-war camp and a labor camp. There were labor camps and prisoner-of-war camps at Essen. I had not understood that it was a concentration camp, but I admit the distinction is a little thin at times.

This document reads:

"I, the undersigned, Dr. Apolinary Gotowicki, a physician in the Polish Army, was taken prisoner by the Germans on 3 January 1941 and remained as such until the entry of the Americans. I gave medical attention to the Russian, Polish, and French prisoners of war who were forced to work in various places of Krupp's factories. I personally visited the Russian PW camp in the Raumastrasse in Essen, which contained about 1,800 men. There was a big hall in the camp which could house about 200 men comfortably, in which 300 to 400 men were thrown together in such a catastrophic manner that no medical treatment was possible. The floor was cement and the mattresses on which the people slept were full of lice and bugs. Even on cold days the room was never heated and it seemed to me, as a doctor, unworthy of human beings that people should find themselves in such a position. It was impossible to keep the place clean because of the overcrowding of these men who had hardly room to move about normally. Every day at least 10 people were brought to me whose bodies were covered with bruises on account of the continual beatings with rubber tubes, steel switches, or sticks. The people were often writhing with agony and it was impossible for me to give them even a little medical aid. In spite of the fact that I protested, made complaints and petitions, it was impossible for me to protect the people or see that they got a day off from work. It was difficult for me to watch how such suffering people could be dragged to do heavy work. I visited personally, with danger to myself, gentlemen of the Krupp administration, as well as gentlemen from the Krupp Directorate, to try to get help. It was strictly forbidden, as the camp was under the direction of the SS and Gestapo; and according to well-known directives I had to keep silent, otherwise I might have been sent to a concentration camp. I have brought my own bread innumerable times to the camp in order to give it to the prisoners, as far as it was possible, although bread was scarce enough for me. From the beginning in 1941 conditions did not get better, but worse. The food consisted of a watery soup which was dirty and sandy, and often the prisoners of war had to eat cabbage which was bad and stank. I could notice people daily who, on account of hunger or ill-treatment, were slowly dying. Dead people often lay for 2 or 3 days on the beds until their bodies stank so badly that fellow prisoners took them outside and buried them somewhere. The dishes out of which they ate were also used as toilets because they were too tired or

too weak from hunger to get up and go outside. At 3 o'clock they were wakened. The same dishes were then used to wash in and later for eating out of. This matter was generally known. In spite of this it was impossible for me to get even elementary help or facilities in order to get rid of these epidemics, illnesses, or cases of starvation. There can be no mention of medical aid for the prisoners. I never received any medical supplies myself. In 1941 I alone had to look after these people from a medical point of view; but it is quite understandable that it was impossible for me as the only one to look after all of these people, and apart from that, I had scarcely any medical supplies. I could not think what to do with a number of 1,800 people who came to me daily crying and complaining. I myself often collapsed daily, and in spite of this I had to take everything upon myself and watch how people perished and died. A report was never made as to how the prisoners of war died.

"I have seen with my own eyes the prisoners coming back from Krupp's and how they collapsed on the march and had to be wheeled back on barrows or carried by their comrades. It was in such a manner that the people came back to the camp. The work which they had to perform was very heavy and dangerous and many cases happened where people had cut their fingers, hands or legs. These accidents were very serious and the people came to me and asked me for medical help. But it was not even possible for me to keep them from work for a day or two, although I had been to the Krupp Directorate and asked for permission to do so. At the end of 1941, two people died daily, and in 1942 the deaths increased to three and four per day.

"I was under Dr. May and I was often successful in getting him to come to the camp to see the terrible conditions and listen to the complaints, but it was not possible for him to get medical aid from the Medical Department of the Armed Forces or Krupp's, or to get better conditions, treatment, or food. I was a witness during a conversation with some Russian women who told me personally that they were employed in Krupp's factory and that they were beaten daily in the most bestial manner. The food consisted of watery soup which was dirty and inedible and its terrible smell could be perceived from a distance. The clothing was ragged and torn and on their feet they had rags and wooden shoes. Their treatment, as far as I could make out, was the same as that of the prisoners of war. Beating was the order of the day. The conditions lasted for years, from the very beginning until

the day the American troops entered. The people lived in great anxiety and it was dangerous for them to describe to anyone anywhere the conditions which reigned in their camps. The directions were such that they could have been murdered by any one of the guards, the SS, or Gestapo if they noticed it. It was possible for me as a doctor to talk to these people; they trusted me and knew that I was a Pole and would never betray them to anyone.

"Signed: Dr. Apolinary Gotowicki."

[Turning to the defendant.] Now you have explained that some of these conditions were due, in your judgment, to the fact that bombing took place and the billets of the prisoners and workers were destroyed.

SPEER: That is true, but I should like to point out that the conditions described in this affidavit cannot be considered as general; apart from that, I do not believe that this description is correct, but I cannot speak about these things since you will not expect me to be intimately acquainted with what happened in the camps of the firm of Krupp.

MR. JUSTICE JACKSON: Well, in the first place, was it considered proper by you to billet forced workers and prisoners of war so close to military targets as these prisoners were?

SPEER: I would rather not tell you here things which every German has at heart. No military targets were attacked, and the camps, therefore, could not be near military targets.

MR. JUSTICE JACKSON: You would not consider the Krupp plants proper targets?

SPEER: The camps were not in the Krupp works, they were near the city of Essen. On principle, we did not construct camps near the works which we expected would be bombed; and we did not want the camps to be destroyed.

MR. JUSTICE JACKSON: Did you notice that one of the photographs in evidence shows the camp directly against the works?

SPEER: May I see it again, please?

[A photograph was shown to the defendant.]

Some large factory is recognizable in the background of this photograph, but that does not affect my statement that in almost all cases we constructed the camps outside the cities. I do not know why this particular instance is different, and I cannot even say whether this is a camp or just a hut for changing clothes, or anything which had to be near the camp. I still believe that these cabinets were cabinets for clothes, and this is one of the many huts which were necessary so that the workers could change clothes

before and after their work. Any expert in Germany can tell you that these are wardrobes and not some special cabinets, because they are mass-produced articles; this is also confirmed by the fact that there are air vents at the top, for every wardrobe has these ventilation holes at the top and bottom.

MR. JUSTICE JACKSON: As production Minister, you were vitally interested in reducing the sickness rate among workers, were you not?

SPEER: I was interested in a high output of work, that is obvious; and in addition, in special cases . . .

MR. JUSTICE JACKSON: Well, special cases—part of production is in all cases, is it not, dependent upon the sickness rate of your labor force, and is it not a fact—as a man engaged in production you will know this—that the two greatest difficulties in manpower and production are sickness and rapid turnover, and that those factors reduce production?

SPEER: These two factors were disturbing for us, but not as extensively as your words might suggest. Cases of sickness made up a very small percentage which in my opinion was normal. However, propaganda pamphlets dropped from aircraft were telling the workers to feign illness, and detailed instructions were given to them on how to do it. And to prevent that, the authorities concerned introduced certain measures, which I considered proper.

MR. JUSTICE JACKSON: What were those measures?

SPEER: I cannot tell you in detail, because I myself did not institute these penalties, nor did I have the power to do so; but as far as I know, they were ordered by the Plenipotentiary General for the Allocation of Labor in collaboration with the Police or State authorities; but the jurisdiction in this connection was with the authorities responsible for legal action.

MR. JUSTICE JACKSON: Now, if you did not know what they were, how can you tell us that you approved of them? We always get to this blank wall that nobody knew what was being done. You knew that they were at least penalties of great severity, did you not?

SPEER: When I say that I approved I am only expressing my wish not to dodge my responsibility in this respect. But you must understand that a minister of production, particularly in view of the air attacks, had a tremendous task before him and that I could only take care of matters outside my own field if some particularly important factor forced me to do so. Otherwise, I was glad if I could finish my own work and, after all, my task was by no means a small one.

I think that if during the German air attacks on England you had asked the British Minister of Production whether he shared

the worries of the Minister of Labor and whether he was dealing with them, then he would with justification have told you that he had something else to do at that time, that he had to keep up his production and that he expected the Minister of Labor to manage affairs in his sector; and no one would have raised a direct accusation against the British Minister of Production on that account.

MR. JUSTICE JACKSON: Well, production was your enterprise, and do you mean to tell me that you did not have any records or reports on the condition of the manpower which was engaged in production, which would tell you if there was anything wrong in the sick rate or anything wrong in the general conditions of the labor?

SPEER: What I knew is contained in the reports of the Central Planning Board; there you will get a picture of what I was told. Although there were many other meetings I cannot tell you in detail what I knew, because these were things outside my sphere of activity. Naturally, it is a matter of course that anyone closely concerned with the affairs of State will also hear of matters not immediately connected with his own sphere, and of unsatisfactory conditions existing in other sectors; but one is not obliged to deal with these conditions and later on one will not remember them in detail. You cannot expect that of me. But if you have any particular passage, I shall be glad to give you information on it.

MR. JUSTICE JACKSON: All right; assume that these conditions had been called to your attention and that they existed. With whom would you have taken it up to have them corrected? What officer of the Government?

SPEER: Normally, a minister would send a document to the Government authorities responsible for such conditions. I must claim for myself that when I heard of such deficiencies I tried to remedy them by establishing direct contact with the authority responsible, in some cases the German Labor Front, where I had a liaison officer, or in other cases my letter was transmitted to Sauckel through my office of manpower deployment. My practice in this respect was that if I did not receive a return report I considered the matter settled; for I could not then again pursue those things and make further inquiries whether they had been dealt with or not.

MR. JUSTICE JACKSON: With Krupp's, then, you would not have taken it up? You think they had no responsibility for these conditions?

SPEER: During visits to Krupp's discussions certainly took place on the conditions which generally existed for workers after air attacks; this was a source of great worry for us, particularly with regard to Krupp. I knew this well, but the reports from Krupp

were not different from—I cannot remember ever being told that foreign workers or prisoners of war were in a particularly bad position. Temporarily they all lived under very primitive conditions; German workers lived in cellars during those days, and six or eight people were often quartered in a small basement room.

MR. JUSTICE JACKSON: Your statement some time ago that you had a certain responsibility as a Minister of the Government for the conditions—I should like to have you explain what responsibility you referred to when you say you assume a responsibility as a member of the Government.

SPEER: Do you mean the declaration I made yesterday that I . . .

MR. JUSTICE JACKSON: Your common responsibility, what do you mean by your common responsibility along with others?

SPEER: Oh, yes. In my opinion, a state functionary has two types of responsibility. One is the responsibility for his own sector and for that, of course, he is fully responsible. But above that I think that in decisive matters there is, and must be, among the leaders a common responsibility, for who is to bear responsibility for developments, if not the close associates of the head of State?

This common responsibility, however, can only be applied to fundamental matters, it cannot be applied to details connected with other ministries or other responsible departments, for otherwise the entire discipline in the life of the State would be quite confused, and no one would ever know who is individually responsible in a particular sphere. This individual responsibility in one's own sphere must, at all events, be kept clear and distinct.

MR. JUSTICE JACKSON: Well, your point is, I take it, that you as a member of the Government and a leader in this period of time acknowledge a responsibility for its large policies, but not for all the details that occurred in their execution. Is that a fair statement of your position?

SPEER: Yes, indeed.

MR. JUSTICE JACKSON: I think that concludes the cross-examination.

THE PRESIDENT: Do any of the other prosecutors wish to cross-examine?

STATE COUNSELLOR OF JUSTICE M. Y. RAGINSKY (Assistant Prosecutor for the U.S.S.R.): Defendant Speer, when you told your biography to the Tribunal and answered the questions of Justice Jackson, I think you omitted some substantial matters. I would like to ask you a few questions.

SPEER: I left out such points as I did not wish to contest, since they are, at any rate, contained here in the documents; I would

have a tremendous task if I were to go into all these points in detail.

MR. COUNSELLOR RAGINSKY: I would like to recall these points, and I would like to ask you to answer them briefly.

Did I understand you correctly that, in addition to your ministerial position, you were also the personal architect of Hitler after the death of Professor Todt? Did you hold this position?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: Were you Inspector General of Roads?

SPEER: Only after Dr. Todt's death.

MR. COUNSELLOR RAGINSKY: Yes, of course. Were you Inspector General of Waterpower and Power Plants?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: Plenipotentiary for Building in the Central Administration of the Four Year Plan?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: Director of the Organization Todt?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: You were associated with the Technological Office of the National Socialist Party? You were the leader of the Union of National Socialist Technicians?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: And in addition to these posts, did you have any other leading positions?

SPEER: Oh, I had 10 or 12 positions. I cannot give you a list of them all now.

MR. COUNSELLOR RAGINSKY: Were you not one of the leaders of the Reich Chamber of Culture?

SPEER: No, no, that is not correct. I cannot tell you for certain, but I think I was a senator there or something like that.

MR. COUNSELLOR RAGINSKY: Were you a member of the presidency of the academy of culture? Were you a member of the presidency of the Academy of Arts?

SPEER: Yes, that also.

MR. COUNSELLOR RAGINSKY: I shall not mention the other posts you have held, in order to shorten the cross-examination. Do you remember your statements during the interrogation by Colonel Rosenblith on 14 November 1945?

SPEER: No, not in detail.

MR. COUNSELLOR RAGINSKY: I will remind you of one question, and will you tell me whether or not your answer was put down correctly. It was the question whether you acknowledged that in his book *Mein Kampf* Hitler stated bluntly his aggressive plans for the countries of the East and West and, in particular, for the Soviet Union. You answered, "Yes, I acknowledge it." Do you remember that?

SPEER: Yes, that is perfectly possible.

MR. COUNSELLOR RAGINSKY: And do you confirm that now?

SPEER: No.

MR. COUNSELLOR RAGINSKY: You do not confirm that now?

SPEER: I shall have to tell you that at the time I was ashamed to say that I had not read the whole of *Mein Kampf*. I thought that would sound rather absurd.

MR. COUNSELLOR RAGINSKY: All right, we shall not waste time. You were ashamed to admit that, or are you ashamed now? Let us go on to another question.

SPEER: Yes, I cheated at that time.

MR. COUNSELLOR RAGINSKY: You cheated at that time; maybe you are cheating now?

SPEER: No.

MR. COUNSELLOR RAGINSKY: It does not matter. You worked on the staff of Hess, did you not?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: You worked with Ley?

SPEER: Yes, in the Labor Front.

MR. COUNSELLOR RAGINSKY: Yes, the German Labor Front. You had a high rank in the Nazi Party, as you stated here today; you said that today in Court, did you not?

SPEER: No, it was not a high rank; it did not in any way correspond to the position which I occupied in the State.

MR. COUNSELLOR RAGINSKY: You had better listen to my questions and then answer them. I repeat; you were collaborating with Hess, and you worked with Ley in the Labor Front. You were one of the leaders of the technicians in the Nazi Party. We will not discuss whether it was a very high rank or not, but you did have a rank in the Nazi Party.

Yesterday, in Court, you said that you were one of Hitler's close friends. You now want to say that so far as the plans and intentions

of Hitler were concerned, you only learned about them from the book *Mein Kampf?*

SPEER: I can say a few words in this connection. I was in close contact with Hitler, and I heard his personal views; these views of his did not allow the conclusion that he had any plans of the sort which have appeared in the documents here, and I was particularly relieved in 1939, when the Nonaggression Pact with Russia was signed. After all, your diplomats too must have read *Mein Kampf;* nevertheless, they signed the Nonaggression Pact. And they were certainly more intelligent than I am—I mean in political matters.

MR. COUNSELLOR RAGINSKY: I will not now examine who read *Mein Kampf* and who did not; that is irrelevant and does not interest the Tribunal.

So you contend that you did not know anything about Hitler's plans?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: All right, please tell us this. As Chief of the Main Office of Technology of the Nazi Party, what were your tasks?

SPEER: In the Party?

MR. COUNSELLOR RAGINSKY: You probably know it better than I, since you were the head of that office.

SPEER: I only took over that task or that office in 1942; and in 1942, during the war, this Main Office of Technology of the NSDAP had no task to perform.

I took over the officials who were in that department into my Ministry, and there they worked as State functionaries. Detailed information on this is available in the written testimony of the witness Saur, and that is contained in my document book.

MR. COUNSELLOR RAGINSKY: What is contained in the testimony of the witness Saur?

SPEER: The document book also contains a decree which I issued at the end of 1942, and in which I ordered the transfer of these tasks to the State.

MR. COUNSELLOR RAGINSKY: But you did not answer my question. In order to clarify this, I will read what Saur said on this point, and you will please state whether it is correct or not.

On the tasks of the Main Office of Technology of the Party, Saur said:

> "The task of the Main Office of Technology of the Party was the unified direction of technical organizations of German engineers in scientific, professional, and political respects."

It was a political organization, was it not?

SPEER: No, it was chiefly a technical organization.

MR. COUNSELLOR RAGINSKY: A technical organization which occupied itself with political questions.

In the document book which has been presented and partly quoted by your defense counsel there are indications of the tasks of the Main Office of Technology. From one document it is obvious that the engineers were to be taught the National Socialist ideology, and that this organization was also a political and not only a technical one.

SPEER: Where does it say so? May I have the document?

MR. COUNSELLOR RAGINSKY: Of course, the document book of the Defense. I shall hand it to you, if you like to have it. You will see there the structure of the Kreisleitung.

SPEER: The translation said it was from my document book, but it is not from my document book. It is from the organizational handbook of the NSDAP, and . . .

MR. COUNSELLOR RAGINSKY: That is the structure of the NSDAP. That is Document 1893-PS, which has been presented by your defense counsel.

SPEER: Yes, but in my document book it says that the Main Office of Technology in the NSDAP did not have a political task. This is an extract from the organizational handbook of the NSDAP, and I would not have included it in my document book if I had not had the precise impression that it demonstrates particularly well that, in contrast to all other agencies, the Main Office of Technology had a nonpolitical task within the Party.

MR. COUNSELLOR RAGINSKY: Was the National Socialist Union of German Technicians a political organization?

SPEER: By no means.

MR. COUNSELLOR RAGINSKY: By no means? Tell me, please, did not the leaders of this Union have to be members of the Nazi Party?

SPEER: They did not have to be members, as far I know. I never paid any attention to whether they were members or not.

THE PRESIDENT: Shall we adjourn now?

[A recess was taken.]

MR. COUNSELLOR RAGINSKY: You were one of the leaders of the Central Planning Board. Was the search for new sources of raw materials part of your program?

SPEER: I do not understand the meaning of the question.

MR. COUNSELLOR RAGINSKY: Was the search for new sources of raw materials part of the program of the Central Planning Board?

SPEER: No, not actually.

MR. COUNSELLOR RAGINSKY: All right. I shall read to you from your document book. Will you listen, please? Otherwise, we shall lose too much time with you. This is the order dated 22 April 1942 and signed by Göring; it is in your document book, in Volume I, Page 14 of the Russian text, and Page 17 of the English text, Exhibit Speer-7. It states:

> "With a view to assuring priority of armaments as ordered by the Führer, and to embrace all the demands which are thereby made on the total economy during the war, and in order to bring about an adjustment between a secure food supply and the raw material and manufacturing facilities in the economy, I order:
>
> "In connection with the Four Year Plan a Central Planning Board shall be organized."

Further on it mentions who the members of the Central Planning Board were. In the third part the tasks of the Central Planning Board are enumerated. I shall read that into the record:

> "Point C: The distribution of existing raw materials, especially iron and metals, among the places requiring them.
>
> "Point B: The decision as to the creation of new plants for production of raw materials, or enlargement of the existing plants."
>
> This is written in your document book.

SPEER: Well, there is a difference. I was told "sources of raw materials"; I understand "sources of raw materials" to mean ore, for example, or coal beds. What this paragraph says is the "creation of new means of producing raw materials," that means the building of a factory for steel production, for instance, or an aluminum factory.

I myself said that expanding the supply of raw materials for industry was important, and that I took over this task.

MR. COUNSELLOR RAGINSKY: Yes. Of course, it is rather difficult to deny it, since it is written here in the document.

SPEER: No, it is only that these are technical expressions, and it may be that since they were retranslated into German they were rendered falsely. The meaning of the paragraph is actually quite clear, and every expert can confirm it. It is the same activity . . .

MR. COUNSELLOR RAGINSKY: I understand the sense. Tell us, when you enumerated the members of the Central Planning Board, was it just accidental that you did not name Funk as a member of that board?

SPEER: No. Actually, Funk worked hardly at all in the Planning Board, and therefore I did not list him. He became a member officially only in September 1943, but even after that time he took part in only one or two meetings, so that his activity was very slight.

MR. COUNSELLOR RAGINSKY: I did not ask you about his activity; I am asking you whether Funk was a member of the Central Planning Board.

SPEER: Yes, from September 1943.

MR. COUNSELLOR RAGINSKY: And it was purely through accident that you did not name him? Or did you have any particular purpose in not naming him?

SPEER: I actually named only the three members who were on the Central Planning Board from the very beginning, since its foundation, because I was speaking only of the foundation of the board. That explains the error. I did not want to occupy the Court's time with something which was generally known.

MR. COUNSELLOR RAGINSKY: All right. You have maintained here that you were concerned only with peaceful construction, and that, as far as the appointment to the post of Minister for armaments was concerned, you accepted it without any particular desire, and you even had your qualms about it. Do you still maintain the same view?

SPEER: May I have the question repeated?

MR. COUNSELLOR RAGINSKY: If you please. You stated here several times, in replying to the questions of your defense counsel, that you accepted the post of Minister for armaments without any special desire, and that you had your qualms about it; and you did not particularly care to accept it. Do you still maintain that now?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: I shall remind you of what you said to the representatives of industry in the Rhine-Westphalia district. Do you remember what you said to them? I shall quote one paragraph from your speech. You said:

> "I did not hesitate long in the spring of 1942, and soon one demand of the Führer after another was taken up by us to be carried out and was laid down in program form—programs the realization of which had been pronounced impracticable

or been made dependent on impossible conditions by the agencies formerly dealing with them." (Document Number Speer-2)

Did you say that?

SPEER: Yes. But this has nothing to do with your statement. The demands which are meant here are demands for an increase in military armaments. Those are the demands I accepted. But in addition it was a matter of course that I immediately accepted the appointment as armament Minister without any qualms. I have never denied that. I only said that I would rather be an architect than an armament Minister, and that can probably be understood.

MR. COUNSELLOR RAGINSKY: And now we shall listen to what you said to the Gauleiter in your speech in Munich:

"I gave up all my activity, including my actual profession, architecture, to dedicate myself without reservations to the war task. The Führer expects that of all of us." (Document 1435-PS)

Is that what you are saying now?

SPEER: Yes. I believe that was the custom in your State too.

MR. COUNSELLOR RAGINSKY: I am not asking you about our State. We are now talking about your State. I am asking you whether you now affirm before the Tribunal what you then said to the Gauleiter.

SPEER: Yes. I only wanted to explain this to you, because apparently you do not appreciate why in time of war one should accept the post of armament Minister. If the need arises that is a matter of course, and I cannot understand why you do not appreciate that and why you want to reproach me for it.

MR. COUNSELLOR RAGINSKY: I understand you perfectly.

SPEER: Good.

MR. COUNSELLOR RAGINSKY: When you made your speech before the Gauleiter, you did not, of course, think that you would be held responsible before the International Military Tribunal for the words which you then spoke.

SPEER: Excuse me; one moment, please. I must say something in answer to your question: That this is my view, and that I think it quite proper, is evident from the fact that you quoted it from my document book, otherwise I would not have included it in my own document book. I hope you consider me sufficiently intelligent to be capable of setting up my document book correctly.

MR. COUNSELLOR RAGINSKY: But these documents are also in the possession of the Prosecution. However, we shall pass on to the next question.

In response to the questions of your defense counsel you testified about the principles and tasks of your Ministry. In connection with this, I should like to ask you a few questions. Do you remember the contents of your article entitled "Increase of Production," which was published in *Das Reich* on 19 April 1942?

You will be given a copy of this article in a second.

Mr. President, I submit this article as Exhibit USSR-479.

[Turning to the defendant.] I shall remind you briefly what you wrote about the principles of your Ministry.

"One thing, however, will be necessary, and that is energetic action, including the most severe punishment, in cases when offenses are committed against the interests of the State . . . severe prison sentences or death . . . The war must be won."

Did you write this?

SPEER: Yes.

MR. COUNSELLOR RAGINSKY: Now, I shall remind you of another article of yours. You will also be given a copy of it.

SPEER: Just a moment. May I ask you to read the whole paragraph? You left out a few sentences in the middle.

MR. COUNSELLOR RAGINSKY: Yes, yes, I omitted something, but I shall ask you some questions on that later.

SPEER: But it shows for what offenses prison and death sentences were provided. That is surely relevant. I believe you should quote the passage fully, otherwise the context will be lost.

MR. COUNSELLOR RAGINSKY: You will give your consents or explanations to the questions afterward. But meanwhile listen to the questions as I put them to you. If you want to give your explanation with regard to this, you are entitled to do so later.

THE PRESIDENT: No, no, General Raginsky, the Tribunal would prefer to have the comments now.

MR. COUNSELLOR RAGINSKY: Mr. President, if the defendant wishes to give an explanation with regard to this article, I shall let him do so, of course.

SPEER: The text which you omitted reads as follows:

"At my suggestion, the Führer ordered that those heads of concerns and employees, and also those officials and officers, who attempt to secure material or labor by giving inaccurate information will receive severe prison sentences or the death sentences."

The reasons for this were as follows: When I took over my office, the demands addressed to the central departments were increased by the intermediate departments handling the demands. Each of

the many intermediate departments added something of its own, so that the demands reaching me were quite enormous and incredible, and made planning quite impossible. For example, because of these additions the demands which I received for copper in one year amounted to more than the whole world's yearly production of copper. And in order to prevent this and to obtain accurate indications, I issued an order to deter these officials, officers, heads of concerns, and employees from giving false figures.

In my Gauleiter speech I spoke of this, and I said the result of this decree would surely be that no one would any longer dare to forward false information to higher offices, and that was the purpose of the decree; I said that it would never be necessary to put the decree into effect, since I did not believe that the heads of concerns, employees, officials, and officers would in view of such a severe penalty have enough boldness to continue supplying false indications.

In fact, no penalty was ever imposed, but the result of the decree was that demands for materials and workers reaching me decreased considerably.

MR. COUNSELLOR RAGINSKY: You maintained that your obligations and duties as a Minister included only production. Did I understand you correctly?

SPEER: Yes, armaments and war production.

MR. COUNSELLOR RAGINSKY: And the supply of industry with raw materials, was that not included in your duties?

SPEER: No, that was my task from September 1943 onwards, when I took over the whole of production. It is true that from then on I was in charge of the whole of production, from raw materials to the finished products.

MR. COUNSELLOR RAGINSKY: In the book *Germany at War (Deutschland im Kampf),* which was published in November 1943—you will be given this volume now, and I submit this document to the Tribunal as Exhibit Number USSR-480—it says:

> "On the basis of the Führer decree of 2 September 1943 relative to the concentration of war economy, and of the decree of the Reich Marshal of the Greater German Reich and the Plenipotentiary of the Four Year Plan for Central Planning of 4 September 1943, Reich Minister Speer will now direct the entire war economic production in his capacity as Reich Minister for Armaments and War Production. He alone is competent and responsible for guiding, directing, and applying the industrial war economy."

Is this correct? I ask you to answer briefly, is it correct or not?

SPEER: This is expressed rather unprofessionally, because the term "industrial war economy" does not quite cover the concept "armament and war production." This was not drawn up by an expert, but otherwise it agrees with what I have testified. I said that war production embraced the whole of production.

MR. COUNSELLOR RAGINSKY: Yes, but after September 1943, you were responsible not only for war industry but for the whole war economy as well, and those are two different things.

SPEER: No, exactly that is the mistake. It says here "industrial war economy," which means something like production, war economy, or production, in trade and industry, with that qualification; and when it says earlier "the entire war economic production," the person who wrote this also meant production. But the concept . . .

MR. COUNSELLOR RAGINSKY: You mentioned here already that having accepted the post of Minister in 1942, you inherited a great and heavy task. Tell us briefly, please, what was the situation with regard to strategic raw materials, and in particular with regard to alloy metals used in the war industry?

THE PRESIDENT: Well, General Raginsky, is it necessary for us to go into details? Is it not obvious that a man who was controlling many millions of workers had a large task? What is this directed to?

MR. COUNSELLOR RAGINSKY: Mr. President, the question is preparatory; it leads to another question, and inasmuch as it is connected . . .

THE PRESIDENT: Yes, but what is the ultimate object of the cross-examination? You say it is leading to something else. What is it leading to?

MR. COUNSELLOR RAGINSKY: The object is to prove that the Defendant Speer participated in the economic plundering and looting of occupied territories.

THE PRESIDENT: Yes, then ask him directly about that.

MR. COUNSELLOR RAGINSKY: I am just coming to that now. *[Turning to the defendant.]* Do you acknowledge the fact that you participated in economic plundering of occupied territories?

SPEER: I participated in the economic exploitation of the occupied countries, yes; but I do not believe the term "plundering" is very clearly defined. I do not know what is meant by "plundering of an occupied territory."

MR. COUNSELLOR RAGINSKY: To make up the deficit of strategic raw materials, did you not export alloy metals for the war industry from Belgium, France, and other occupied territories?

SPEER: Of course, I did not export them myself; but certainly I participated in some way. I was not responsible for it, but certainly I urged strongly that we should obtain as much metal from there as possible.

MR. COUNSELLOR RAGINSKY: I am satisfied with your answer and the Tribunal will draw its conclusions.

Do you remember Hitler's decree about the concentration of war economy, published on 2 September? You will be given a copy of this decree at once. This document is being submitted as Exhibit Number USSR-482. I do not intend to read all of this as it will take too much time, but I would like to read into the record a few paragraphs of this decree, which begins:

"Taking into consideration the stricter mobilization and uniform commitment of all economic forces required by the exigencies of war, I order the following:"

Paragraph 2:

"The powers of the Reich Minister for Economy in the sphere of raw materials and production in industry and trade are given to the Reich Minister for armaments and munitions. The Reich Minister for armaments and munitions, in view of the extended scope of his tasks, will be known as Reich Minister for Armaments and War Production."

Did you see this decree?

SPEER: Yes, I know it.

MR. COUNSELLOR RAGINSKY: Will you, in connection with this decree, tell us briefly and concisely how the functions between you and Funk were divided?

SPEER: Well, that is shown in the text. I was in charge of all production, from raw materials to the finished product, and Funk was in charge of all general economic questions, primarily the questions of financial transactions, securities, commerce, foreign trade, and so forth. This, however, is not exhaustive, but just approximate information.

MR. COUNSELLOR RAGINSKY: That answer satisfies me. In connection with this decree, did you receive plenipotentiary powers for the regulation of goods exchange and goods traffic?

SPEER: I do not quite understand what you mean.

MR. COUNSELLOR RAGINSKY: All right. So as not to lose any time, then, you will be given a document signed by you and Funk, and dated 6 September 1943. This document I present to the Tribunal as Exhibit Number USSR-483. I shall read the first sentence of the first paragraph:

"Insofar as existing laws establish the authority of the Reich Minister of Economy in the regulation of goods traffic, this authority for the period of the war will be exercised by the Minister for Armaments and War Production."

In this way your role in the war effort of Germany, your role as head of the German war economy during the period of the war, was much wider in scope than that which you have described here to the Tribunal, is that not so?

SPEER: No, I did not try to picture the situation differently, and I said that during the war the Minister for armaments held the most important position of all in the Reich; and that everyone had to work for him. I do not believe that I could have given a more comprehensive description of my task. This matter of goods traffic is of quite subordinate significance. I cannot even say what is meant here by "goods traffic." It is a technical term which I do not quite understand.

MR. COUNSELLOR RAGINSKY: Yes, but this document is signed by you, and now you do not know exactly what is meant by it. You signed it together with Funk?

SPEER: Of course.

MR. COUNSELLOR RAGINSKY: Tell us, how was contact between your Ministry and the German Labor Front maintained and was there contact between the two organizations?

SPEER: There was a liaison man between the German Labor Front and me, just as between all other important offices in the Reich.

MR. COUNSELLOR RAGINSKY: Would you not name that officer?

SPEER: It was my witness Hupfauer, who later was chief of the central office under me.

MR. COUNSELLOR RAGINSKY: You testified that a number of concerns, such important concerns as the textile industry, processing of aluminum and lumber, *et cetera,* should not be included in the list of war economy concerns. Did I understand you correctly? Did you maintain that?

SPEER: No, that is a mistake. That must have been wrongly translated.

MR. COUNSELLOR RAGINSKY: How should I understand it correctly?

SPEER: I think there are two mistakes here in the translation. In the first place, I did not speak of war economy in my testimony, but I used the term "armament." I said that this term "armament"

includes textile concerns and wood and leather processing concerns. But armament and war economy are two entirely different terms.

MR. COUNSELLOR RAGINSKY: And the textile industry is wholly excluded from the term "armament"?

SPEER: I said that various textile concerns were incorporated in armament industry, although they did not produce armaments in the strict sense of the word.

MR. COUNSELLOR RAGINSKY: Did not the textile industry manufacture parachute equipment for the Air Force?

SPEER: Yes, but if you consult the Geneva Agreement on prisoners of war, you will see that it is not forbidden to manufacture that—for prisoners of war to manufacture that. I have the text here, I can read it to you.

MR. COUNSELLOR RAGINSKY: And do you want us seriously to accept that powder can be manufactured without cellulose, and are you for that reason narrowing down the conceptions of war industry and war production?

SPEER: No, you have misunderstood me completely. I wanted to make the concept "armament industry" as broad as possible, in order to prove that this modern conception of armament industry is something entirely different from the industries producing armaments in the sense of the Geneva Convention.

MR. COUNSELLOR RAGINSKY: All right. You spoke of your objection to using foreign workers, and your motives for this objection were indicated by Schmelter in his testimony. He was in charge of labor in your Ministry. This testimony was presented by your defense counsel; I shall read only one paragraph, and will you please confirm whether it is correct or not:

> "Insofar as he—Speer—repeatedly mentioned to us that utilization of foreign workers would create great difficulties for the Reich with regard to the food supply for these workers . . ."

Were these the motives for your objection?

SPEER: The translation must be incorrect here. I know exactly how the text reads and what the sense of this statement is. The sense is entirely correct. The question was this: If we brought new workers to Germany, we had first of all to make available to them the basic calories necessary to feed a human being. But the German laborers still working in Germany had to receive these basic calories in any case. Therefore, food was saved if I employed German workers in Germany and the additional calories for persons doing heavy work and working long hours could again have been increased. That was the sense of Schmelter's statement.

MR. COUNSELLOR RAGINSKY: Defendant Speer, you have evaded a direct answer to my question.

SPEER: I will gladly . . .

MR. COUNSELLOR RAGINSKY: You are now going into details which are of no interest to me. I asked you whether I understood this particular passage, which I read from the testimony of Schmelter, correctly or not.

SPEER: No, it was falsely translated. I should like to have the original in German.

MR. COUNSELLOR RAGINSKY: The original is in your document book and you can read it. I will pass to the next question.

SPEER: Yes, but it is necessary to show it to me now. In cross-examination by the Russian prosecutor I do not really need to bring my document book to the stand with me.

THE PRESIDENT: You must give him the document, if you have got the document.

MR. COUNSELLOR RAGINSKY: Mr. President, this document is contained in the document book presented by the defense counsel. The Tribunal has the original, I have only the Russian translation. Schmelter's affidavit was submitted to the Tribunal yesterday.

THE PRESIDENT: Have you got it, Dr. Flächsner?

DR. FLÄCHSNER: Yes.

[The document was handed to the defendant.]

THE PRESIDENT: Thank you.

SPEER: On what page, approximately?

MR. COUNSELLOR RAGINSKY: It is Page 129 in the Russian translation, answer to Question 13, the last paragraph.

SPEER: Yes. It says in the German text:

> "He—that is, Speer—referred repeatedly to the fact that the employment of foreign workers would cause greater difficulties in production and would mean that the Reich would have to supply additional food." (Document Speer-38)

I explained that. I explained the reasons for that; I think, if you are not convinced, that this explanation of mine is also mentioned later in the affidavit.

MR. COUNSELLOR RAGINSKY: Your deputy, Schieber, in reply to the question whether Speer knew that the workers which he requested from Sauckel were brought from occupied territories, answered:

> "Well, that was the great debatable question. We always said that Sauckel would only create partisans if he brought workers to Germany against their will." (Document Speer-37)

In connection with this, I am saying that you not only knew that the people who were working in your industries were enslaved workers, but that you also knew of the methods which Sauckel used. Do you confirm that?

SPEER: I knew that some of the workers were brought to Germany against their will. I have already said so. I also said that the effects of this compulsory recruitment I considered wrong and disastrous for production in the occupied territories. This is a repetition of my testimony.

MR. COUNSELLOR RAGINSKY: It is of no use to repeat your testimony. Tell me, did you not insist that Sauckel supply you with forcibly recruited workers beyond the demands which you had already made? I shall remind you of your letter to Sauckel; this will expedite the proceedings. On 6 January 1944 you wrote to Sauckel:

> "Dear Party-Comrade Sauckel, I ask you, in accordance with your promise to the Führer, to assign these workers so that the orders issued to me by the Führer may be carried out on time. In addition there is an immediate need of 70,000 workers for the Todt Organization to meet the time limit set on the Atlantic Wall by the Führer in Order Number 51; notification of the need for this labor was given more than 6 months ago, but it has not yet been complied with." (Document Speer-11)
>
> Did you write this letter? Do you admit it?

SPEER: Yes. I even admit that I included this letter in my document book, and for the following reasons: The conference at which Hitler ordered that 1 million workers were to be brought from France to Germany took place on 4 January 1944. On the same day I told General Studt, my representative in France, that the requirements for blocked industries in France were to be given priority over the requirements for Germany. Two days later I told Sauckel, in the letter which you now have in your hand, that my need in France amounted to 800,000 workers for French factories and that in addition requirements for workers on the Atlantic Wall had not yet been fully met, that this labor was therefore to be provided first, before the 1 million workers were sent to Germany. I said yesterday already that through these two letters the program which had been ordered by Hitler was brought to a standstill, and that it was the purpose to inform the military commander, who also received this letter, that the workers were to be used first in France; that information was very valuable to the military commander.

MR. COUNSELLOR RAGINSKY: Defendant Speer, did you know that in the factories of which you were in charge, some of the forced

laborers were convicts whose prison terms had already expired? Did you know that?

SPEER: During my period of office I did not know it; I learned of it here from a document.

MR. COUNSELLOR RAGINSKY: You claim that you did not know it?

SPEER: I know what you mean; it is mentioned in the Schieber letter of 4 May 1944, which is in my document book, but I could not possibly remember all these details.

MR. COUNSELLOR RAGINSKY: You cannot remember, but Schieber, on 4 May 1944, in a special letter addressed to you personally, wrote to you about it and you could not possibly not have known it. The fact that this letter is included in your document book does not change the situation.

SPEER: On the basis of this letter I then wrote to Himmler with regard to the workers who had finished their prison sentences. I can submit this letter at any time, I left it out to avoid making the document book too long. This letter shows that I asked Himmler to let those workers who had served their sentences remain free. Himmler's point of view was that these workers should remain in custody.

MR. COUNSELLOR RAGINSKY: Do you remember the letter from the OKW of 8 July 1943, on the subject of manpower for mining? Do you remember this letter and the contents of this letter?

SPEER: No.

MR. COUNSELLOR RAGINSKY: I shall remind you.

This document was submitted to the Tribunal as Exhibit Number USA-455 and has been quoted here several times. I think, therefore, that it is not necessary to read all of it into the record, but I will read just a few basic points.

The Führer's order to assign 300,000 Russian prisoners of war to coal mining is mentioned in this letter. Do you remember this order?

SPEER: I should like to see it.

MR. COUNSELLOR RAGINSKY: You will be given a chance to see it. In Paragraph 2 of this document it is mentioned that:

> "All prisoners of war taken in the East after 5 July 1943 are to be brought to the camps of the OKW and from there, either directly or by barter through other employing agencies, will be turned over to the Plenipotentiary General for the Allocation of Labor for commitment in coal mining."

In Paragraph 4 of this document it is mentioned that:

> "All male prisoners from 16 to 55 years of age captured in guerrilla fighting in the operational army area of the Eastern

commissariats, the Government General, and the Balkans, will in the future be considered prisoners of war. The same applies to males in the newly conquered regions of the East. They are to be sent to prisoner-of-war camps and from there committed for labor in the Reich."

This letter was also sent to you and therefore you knew what kind of methods were used to obtain workers for your coal industry. Do you admit that?

SPEER: No, I do not admit it.

MR. COUNSELLOR RAGINSKY: All right.

SPEER: I do not know whether you mean that the prisoners who were taken in the fighting against partisans in the operational area were to be sent to the mines. I assumed at the time that they were taken prisoner in battle, and a partisan captured in battle is, of course, a prisoner of war. Here the assertion was made that in particular the prisoners taken in the partisan areas were not treated as prisoners of war. But this document seems to me to be evidence to the contrary. It shows that prisoners taken in the partisan areas were treated as prisoners of war.

MR. COUNSELLOR RAGINSKY: I am definitely not interested in your comments on this document. I asked you whether you knew in what particular way and through what particular methods you were receiving workers for your coal industry, and you answered that you did not admit knowledge of it; I think that covers the question with regard to the document. We will pass on to the next document.

On 4 January 1944 you participated in a meeting which took place in Hitler's headquarters and at which the question of utilization of manpower for 1944 was discussed. You stated that you would have to have an additional 1.3 million workers. During this meeting it was decided that Sauckel would furnish not less than 4 million workers from occupied territory in 1944, and that Himmler would help him to supply this number. The minutes of the meeting, signed by Lammers, stated that the decision of all participants in the meeting was unanimous. Do you acknowledge that, as a participant in this meeting and as a Reich Minister, you are among those responsible for the forced deportation to Germany of a few million workers?

SPEER: But the program was not carried through in any way. This program, specifically, was not carried through.

MR. COUNSELLOR RAGINSKY: Defendant Speer, if you do not answer my questions, we shall lose too much time.

THE PRESIDENT: But, General Raginsky, from the outset of this defendant's evidence, if I understand it, he admitted that he

knows that prisoners of war and other workers were brought to Germany forcibly, against their will. He has never denied it.

MR. COUNSELLOR RAGINSKY: Yes, Mr. President, he admitted it. But the question now is whether he admits that he himself is responsible for the decision taken at this meeting which he attended on 4 January. He did not answer that and I am asking him again.

[Turning to the defendant.] I shall repeat my question. I am not asking you whether Sauckel really carried through this program. I am asking you whether on 4 January you participated in a decision taken at Hitler's headquarters that Sauckel, with the assistance of Himmler, should deport 4 million people to forced labor. You participated in that decision, did you not? It is obvious from the minutes which state that the decision was unanimous. Now, on that basis, do you accept responsibility for this decision?

SPEER: As far as my sector and my responsibility in it are concerned, I assume that the Tribunal will decide the extent of my responsibility. I cannot establish it myself.

MR. COUNSELLOR RAGINSKY: Now, I shall read to you an excerpt from a document presented to the Tribunal as Exhibit Number USA-184. This document mentions a decision of Sauckel to the effect that a levy and recruitment of two age classes—1926 and 1927—will be carried through in all newly occupied Eastern Territories. This document also states that "the Reich Minister for armaments and munitions approved this order," and the document ends with the following sentence:

> "Levy and recruitment must be speeded up and carried through with the greatest energy and all appropriate measures must be applied."

Do you remember this order?

SPEER: I read this document here; it is correct.

MR. COUNSELLOR RAGINSKY: Now we shall pass on to the next question. You stated here that you were highly critical of Hitler's entourage. Will you please name the persons whom you criticized?

SPEER: No, I will not name them.

MR. COUNSELLOR RAGINSKY: You will not name these persons because you did not criticize anybody; am I to understand you in that way?

SPEER: I did criticize them, but I do not consider it right to name them here.

MR. COUNSELLOR RAGINSKY: Well, I will not insist on an answer to this question.

You had some differences with Hitler. Tell us, did they begin after you had convinced yourself that Germany had lost the war?

SPEER: I made clear statements on this point yesterday.

MR. COUNSELLOR RAGINSKY: You spoke here quite extensively about your opposition to the destruction of industries in the western section of the Reich before the withdrawal of the German Armed Forces. But did you not do that only because you counted upon the reoccupation of these regions in the near future and because you wanted to save these industries for your own use?

SPEER: No, that was not the reason. I explained in detail yesterday that this served as my pretext to prevent the destruction. If, for instance, you look at my memorandum dealing with the motor fuel situation, it is obvious that I did not believe a reoccupation was possible, and I do not think that any military leader in 1944 considered a reoccupation of France, Belgium, or Holland possible. That also applies to the Eastern Territories, of course.

MR. COUNSELLOR RAGINSKY: I think it would be better if we referred to the document. That is the right way of doing it and it would save time. It is a draft of a telegram which you prepared for Gauleiter Bürckel, Wagner, and others.

I shall read from Page 56, of your document book:

"The Führer has stated that he can in a short time accomplish the reoccupation of the territories which are at present lost to us, since in continuing the war the western areas are of great importance for armament and war production."

What you stated in your testimony is quite different from what you wrote to the Gauleiter.

SPEER: No, my counsel quoted and explained all this yesterday. I should like to see the document again. I do not know whether it is necessary to repeat this whole explanation; it was given yesterday and lasted about 10 minutes. Either my explanation of yesterday is believed or not.

MR. COUNSELLOR RAGINSKY: I do not want you to repeat what you said yesterday; if you do not want to answer me, I prefer to pass on to the next question.

THE PRESIDENT: General Raginsky, if you asked him a question which was asked yesterday, he must give the same answer if he wants to give a consistent answer.

MR. COUNSELLOR RAGINSKY: Mr. President, I do not think it is necessary to repeat yesterday's question; it would be an absolute waste of time. If he does not want to answer truthfully, then I shall pass on to the next question.

THE PRESIDENT: The witness says: "I did answer the question truthfully yesterday, but if you want me to repeat it again, I will do it, but it will take 10 minutes to do it." That is what he said and it is a perfectly proper answer.

MR. COUNSELLOR RAGINSKY: I prefer to pass on to the next question.

[Turning to the defendant.] Tell us why you sent this telegram about the destruction of industries to the Gauleiter.

SPEER: It was not sent only to the Gauleiter; it was sent to my representatives as well as to the Gauleiter. The Gauleiter had to be informed because they could on their own initiative have ordered destruction to be carried out, and since they were not subordinate to me but to Bormann I had to send this teletype message which I had drafted to Bormann with the request to forward it to the Gauleiter.

MR. COUNSELLOR RAGINSKY: You stated that the adherents of Hitler's "scorched earth" policy were Ley, Goebbels, and Bormann. Now, what about those who are alive today, those who are now sitting in the dock. Did not any of them support Hitler in this policy?

SPEER: As far as I recall, none of those now in the dock were in favor of the scorched earth policy. On the contrary, Funk, for example, was one of those who opposed it very strongly.

MR. COUNSELLOR RAGINSKY: This policy was advocated only by people who are now dead?

SPEER: Yes, and probably they killed themselves because they advocated this policy and did other such things.

MR. COUNSELLOR RAGINSKY: Your defense counsel has submitted to the Tribunal several letters addressed to Hitler, dated March 1945. Tell us, did Hitler, after receiving these letters, lose confidence in you?

SPEER: I said yesterday already that violent disputes followed these letters, and that Hitler wanted me to go on leave, on permanent leave; that is, in effect he wanted to dismiss me. But I did not want to go.

MR. COUNSELLOR RAGINSKY: I have heard this before. But nevertheless, Hitler appointed you on 30 March 1945 to be in charge of the total destruction of all industries.

SPEER: Yes; that is, I was competent for the destruction or nondestruction of industry in Germany until 19 March 1945. Then a Hitler decree which has also been submitted took away from me this power to carry out destruction, but Hitler's decree of 30 March 1945, which I drew up, returned this power to me. The main thing,

however, is—I have also submitted the orders which I issued on the strength of this power; they show clearly that I prohibited the carrying-out of destruction, and thereby my purpose was achieved. Not Hitler's decree, but the wording of my executional order was decisive. That order is also among the documents.

MR. COUNSELLOR RAGINSKY: In spite of the fact that Hitler received such letters from you, he did not regard you as a man opposing him?

SPEER: Hitler said in the talk which I had with him at that time that both for domestic and for foreign political reasons he could not dispense with my services. That was his explanation. I believe that already then his confidence in me was shaken, since in his will he named another as my successor.

MR. COUNSELLOR RAGINSKY: And the last question. In April 1945, you wrote, in the Hamburg radio studio, a speech which you intended to deliver if Berlin fell. In this speech, which was not delivered, you advocated the banning of werewolf organization. Tell us, who was in charge of the werewolves?

SPEER: Reichsleiter Bormann was in charge of the werewolves.

MR. COUNSELLOR RAGINSKY: And besides Bormann, who?

SPEER: No, just Bormann, as far as I know—I am not quite certain—the werewolf organization was subordinate to Bormann.

MR. COUNSELLOR RAGINSKY: Naturally. If Bormann were still alive, then you would have said that Himmler was the leader of this organization. I did not expect another answer from you. I have no more questions of the defendant.

THE PRESIDENT: Dr. Servatius, did you want to ask something which arises out of the cross-examination?

DR. SERVATIUS: I have only a few questions on the cross-examination.

Witness, you stated that after air raids deficiencies arising in the concerns were reported by you to the DAF or to Sauckel. That is correct, is it not?

SPEER: No, not quite in this form. I was asked whether I received occasional reports on such conditions. I said "yes," I passed them on to Sauckel or to the DAF because they were the competent authorities.

DR. SERVATIUS: What did these reports which were sent to Sauckel contain?

SPEER: As far as I remember I said in the examination that I do not exactly recall receiving such reports. In any case the question was only a theoretical one: What would I have done if I had

received such reports? I thought that reports had certainly reached me, but I can no longer recall their specific contents.

DR. SERVATIUS: What was Sauckel to do?

SPEER: Against the air raids Sauckel could not do anything either.

DR. SERVATIUS: If you sent the reports to him it meant that he was to provide help?

SPEER: Yes, or that he, as the competent authority, would have precise information on conditions in his field of work, even if he could not help.

DR. SERVATIUS: His field was the recruiting of manpower.

SPEER: No, also labor conditions.

DR. SERVATIUS: Labor conditions could be improved only through material deliveries, through food deliveries, and so forth.

SPEER: Of course, but in the last analysis the Plenipotentiary General for the Allocation of Labor was responsible for working conditions. That is obvious from the decree which Göring signed. Naturally it was also the concern of other authorities to create good working conditions; that is quite clear.

DR. SERVATIUS: But, after all, it was not a question of issuing a decree, but of giving practical help.

SPEER: Practical help after air raids was not given by the central agency; that was impossible since transportation and telephone connections were generally cut. It was given by the local authorities.

DR. SERVATIUS: In other words, Sauckel could not do anything?

SPEER: No, not personally, but his local offices under him participated in rendering aid.

DR. SERVATIUS: But he had to turn to you for any material, since everything was confiscated for armament?

SPEER: As far as building material was concerned, he could get it only from me, and he did in fact receive large amounts of it. I must add that Sauckel himself did not receive them but, as far as I recall, generally the German Labor Front, since the DAF actually took care of the camps.

DR. SERVATIUS: Which were the responsible agencies? Were you not the agency which cared for the concerns?

SPEER: Not in the sense which you mean. You want me to answer that I was responsible for the working conditions.

THE PRESIDENT: Dr. Servatius, the Tribunal thinks that we have been over all this already with the witness.

DR. SERVATIUS: Mr. President, I think this question has not yet been dealt with. Yesterday internal administration was discussed. A second series of agencies existed for taking care of the factories, namely, through the Armament Commission and the Armament Inspection Office; and there was a third possibility open to the witness Speer for making contact with the factories through the Reich Labor Efficiency Engineers. In this connection I wanted to ask him another question.

SPEER: I shall be glad to explain it.

DR. SERVATIUS: Did not the Labor Efficiency Engineers constitute your only real possibility of improving conditions in the concerns, and did you have direct supervision?

SPEER: I must define for you the task of the labor engineers; it was an engineering task, that is shown in their designation.

DR. SERVATIUS: It was limited to this engineering task?

SPEER: Yes.

DR. SERVATIUS: Then I have no more questions.

DR. FLÄCHSNER: Mr. President, I have only two questions arising out of the cross-examination.

One of the questions is this: Herr Speer, I refer once more to the answer which you gave to Justice Jackson at the end of the cross-examination, and to clarify that answer I would like to ask you this: In assuming a common responsibility, did you want to acknowledge measurable guilt or coresponsibility under the penal law, or did you want to record a historical responsibility before your own people and before history?

SPEER: That question is a very difficult one to answer; it is actually one which the Tribunal will decide in its verdict. I only wanted to say that even in an authoritarian system the leaders must accept a common responsibility, and that it is impossible for them to dodge that common responsibility after the catastrophe, for if the war had been won the leaders would also presumably have laid claim to common responsibility. But to what extent that is punishable under law or ethics I cannot decide, and it was not my purpose to decide.

DR. FLÄCHSNER: Thank you. Secondly, the American Prosecution showed you a number of documents on conditions which for the most part, I believe even entirely, concerned the firm of Krupp. You said that you yourself had no knowledge of these conditions. Did I understand you correctly?

SPEER: I did not know the details necessary to be able to judge these documents individually.

DR. FLÄCHSNER: I have no more questions, Mr. President. However, I must reserve the right, in connection with these affidavits which are evidence against my client—the position is actually not quite clear to me—to decide whether it is necessary to cross-examine the person who made the affidavits. I regret that, but I may possibly have to do it. I had no previous knowledge that these documents would be introduced here.

Then, Mr. President, I need just 5 minutes to finish my documentary evidence.

THE PRESIDENT: Yes, Dr. Flächsner, with reference to these affidavits, if you want to cross-examine any witness you must apply in writing to do so, and you must do so promptly. Because I think I am correct in saying that there are only two other of the defendants to be examined, and unless the application comes in soon, it will not be possible to find the witnesses or to bring them here in time.

Now, you say you will finish in 5 minutes?

DR. FLÄCHSNER: Yes.

THE PRESIDENT: I think you may as well finish now, then. However, Dr. Flächsner, the Tribunal has one or two questions to put to the defendant.

THE TRIBUNAL (Mr. Biddle): Defendant, you spoke of not using the western prisoners in war industry and in the making of munitions, do you remember?

SPEER: Yes.

THE TRIBUNAL (Mr. Biddle): Were there regulations to that effect?

SPEER: Yes.

THE TRIBUNAL (Mr. Biddle): There were regulations to that effect?

SPEER: Yes, as far as I know, but my knowledge need not be precise. I only recall talks with Keitel about employment in individual cases, and these Keitel turned down. Otherwise I had no knowledge.

THE TRIBUNAL (Mr. Biddle): You never saw any regulation which made that distinction, did you?

SPEER: No.

THE TRIBUNAL (Mr. Biddle): And with respect to civilians from nonoccupied countries, they were used in war industries, I suppose, were they not?

SPEER: Foreign workers were employed without consideration for any agreement.

THE TRIBUNAL (Mr. Biddle): That is just what I want to know.

Now, you said the concentration camps had a bad reputation? I think those were your words, were they not, a bad reputation? Is that right?

SPEER: Yes.

THE TRIBUNAL (Mr. Biddle): What did you mean by that phrase "bad reputation"? What sort of reputation, for what?

SPEER: That is hard to define. It is—it was known in Germany that a stay in a concentration camp was an unpleasant matter. I also knew that but I did not know any details.

THE TRIBUNAL (Mr. Biddle): Well, even if you did not know any details, is not "unpleasant" putting it a little mildly? Was not the reputation that violence and physical punishment were used in the camps? Was not that the reputation that you meant? Is it not fair to say that, really?

SPEER: No, that is going a little too far, on the basis of what we knew. I assumed that there was ill-treatment in individual cases, but I did not assume that it was the rule. I did not know that.

THE TRIBUNAL (Mr. Biddle): Did you not know that violence or physical force was used to enforce the regulations if the internees did not obey them?

SPEER: No, I did not know it in this form. I must say that during the time in which I was a Minister, strange though as it sounds, I became less disturbed about the fate of concentration camp inmates than I had been before, because while I was in office I heard only good and calming reports about the concentration camps from official sources. It was said that the food was being improved, and so on and so forth.

THE TRIBUNAL (Mr. Biddle): Only one other question. I was interested in what you said at the end about all of the leaders being responsible for certain general principles, certain great things. Can you say any one of those things? What did you mean? What principles? Did you mean going on with the war, for instance?

SPEER: I think that, for example, the beginning of the war or the end of the war are such basic principles. I think . . .

THE TRIBUNAL (Mr. Biddle): You deem the beginning of the war and the end of the war basic principles for which the leaders were responsible?

SPEER: Yes.

THE TRIBUNAL (Mr. Biddle): Thank you.

THE PRESIDENT: The defendant can return to the dock.

[The defendant left the stand.]

You may as well finish tonight, Dr. Flächsner.

DR. FLÄCHSNER: Yes, gladly.

I should like, supplementing yesterday's evidence, to submit a letter from Speer to Sauckel of 28 January 1944, which was quoted here yesterday; I shall give it Exhibit Number 31.

Then, another letter from Speer to Sauckel of 11 March 1944; that will be Exhibit Number 32.

Then, the execution order for the destruction decree mentioned by the defendant yesterday, which the Tribunal will find on Page 81 of the English document book; I submit it as Exhibit 33.

Then, as Exhibit 34, I should like to submit a letter from Hitler to Speer dated 21 April 1944.

THE PRESIDENT: Will you give us the date of Exhibit 33? You said Page 81. Did you mean Page 81 of the original, which is 85 in the English?

DR. FLÄCHSNER: No, in the English text, Mr. President.

THE PRESIDENT: What is the date of the document?

DR. FLÄCHSNER: It is an execution order for the Führer decree of 19 March 1945.

THE PRESIDENT: Very well.

DR. FLÄCHSNER: The next document, Mr. President, is on Page 55 of the English text and Page 52 of the original, the same as the French text. It is the letter from Hitler to Speer, already mentioned, dealing with the commission given to Dorsch for the construction of fighter planes. That is Exhibit Number 34.

I have to submit Number 35 later.

As Exhibit Number 36 I submit the interrogatory of Kehrl. It is signed by the witness Hans Kehrl, and the signature is certified by an officer of the internment camp; the signature of a representative of the Prosecution and my own signature are also on it.

THE PRESIDENT: What page is that—36?

DR. FLÄCHSNER: 36 is on Page 105 in the original.

On Page 113 of the Document Book 2, Mr. President, is an excerpt from the interrogation of the witness Schieber, which I submit as Exhibit Number 37. It is submitted in German and English. The record is certified by a member of the Prosecution and by me.

In the second book, on Page 127, the Court will find the interrogation of the witness Schmelter, which I submit as Exhibit Number 38. It is certified in the same way.

On Page 136 of Document Book 2 I submit the testimony of the witness Hupfauer, who was also mentioned here today. That will be Exhibit Number 39.

On Page 142 of Document Book 2 the Court will find the interrogation of the witness Saur. I submit this as Exhibit Number 40, again in English and German. The English record is certified by a member of the Prosecution and by me.

On Page 148 of my second document book the Court will find the record of the examination of Frank, carried out in Ludwigsburg by the Prosecution and by me. The record is certified by the Prosecution and by me.

THE PRESIDENT: That was 41, was it not?

DR. FLÄCHSNER: That was Number 41, Mr. President.

On Page 153 of the document book is the record of the examination of Rohland, which will be Exhibit Number 42. This also is in English and in German, and is certified in the usual way.

On Page 165 of the document book is the record of the examination of the witness Kempf, carried out on 3 May at Kransberg by the Prosecution and by me. It is certified in the usual way, and will be Exhibit Number 43.

THE PRESIDENT: How many more have you got?

DR. FLÄCHSNER: There are two more.

On Page 176 of the document book is the interrogatory of Guderian, who was questioned at Hersbruck. The record is in English and German, and the English is certified by me and the Prosecution. That is Exhibit Number 44.

On Page 181 of the document book—this will be Exhibit Number 45—the Court will find the testimony of the witness Stahl, also in English and German, the English being certified by the Prosecution and by me.

Finally, on Page 186 of the document book there is the interrogatory of Karl Brandt, which is certified by the camp authorities. It is in English and German, and will be Exhibit Number 46.

THE PRESIDENT: Is that all?

DR. FLÄCHSNER: That is all.

Mr. President, yesterday the defendant referred to excerpts of the Führer conference of 3 to 5 January. This document has not yet been translated, and with your permission I shall submit it later. The Prosecution has already seen it and has no objection.

Those are the documents I wanted to submit. I believe that the Court does not wish to hear comments on the documents in the document book, especially as the documents have already been presented by the Russian Prosecution in great detail. That concludes my case of the Defendant Speer.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 22 June 1946 at 1000 hours.]

ONE HUNDRED AND SIXTY-FIRST DAY

Saturday, 22 June 1946

Morning Session

THE PRESIDENT: Dr. Von Lüdinghausen, the Tribunal sees that you have a supplementary request for an additional witness, Ambassador François-Poncet; is that so? And for some additional documents?

DR. VON LÜDINGHAUSEN: Yes, Mr. President. May I, with reference to the application for M. François-Poncet, make the following remarks. The Ambassador, François-Poncet, has in the meantime replied to the summons which he received and I got this letter 2 days ago through the French Delegation, though only a copy thereof. The French Prosecution, however, have promised me that the original will be submitted to the Tribunal and they, as well as the British Delegation, have no objections to its being used. Therefore, the application for the interrogation of the witness . . .

THE PRESIDENT: The letter being used, you mean?

DR. VON LÜDINGHAUSEN: The calling and examination of the witness is therefore unnecessary, likewise this application of mine.

THE PRESIDENT: That seems a convenient course to the Tribunal, subject, of course, to any question of relevance in the actual subject matter of the letter.

Now, as to the documents which you are asking for, does the Prosecution object to those or not?

DR. VON LÜDINGHAUSEN: Yes, in two cases, which I have already crossed off. The two documents which I also wanted to submit and which have been objected to by the Prosecution I eliminated, and they are no longer in my document books.

THE PRESIDENT: On the document before me the Prosecution appears to have objected to three of them. I do not know whether that is true or not.

DR. VON LÜDINGHAUSEN: Two, Numbers 93 and 101 from my document books—they have been objected to and I have dropped them.

THE PRESIDENT: Yes, I beg your pardon, I was wrong. Well then, you have dropped them; that is all right. You may continue, please.

DR. VON LÜDINGHAUSEN: Mr. President, may I first of all say that up to now the translations have been completed only for Document Book Number 1. That book is already available. The others, however, are not yet ready. I should nevertheless like to be permitted first of all to cite the documents from the document books in connection with the respective questions, giving their numbers and short descriptions and also possibly quoting short passages from them, so that the context may remain intact and we may be saved the trouble of submitting the documents again after they have been translated, which after all would be a waste of time.

THE PRESIDENT: Do you mean to use the documents before you have called the defendant?

DR. VON LÜDINGHAUSEN: No, no, in the course of the examination.

THE PRESIDENT: Yes—then you propose to call the defendant?

DR. VON LÜDINGHAUSEN: Yes.

[The Defendant Von Neurath took the stand.]

THE PRESIDENT: Will you state your name, please?

CONSTANTIN VON NEURATH (Defendant): Constantin von Neurath.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The defendant repeated the oath.]

THE PRESIDENT: You may sit down.

DR. VON LÜDINGHAUSEN: Herr Von Neurath, will you please give us a brief account of your family background, your education at home, and your schooling?

VON NEURATH: I was born on 2 February 1873. On my father's side I come from an old family of civil servants. My grandfather, my great-grandfather, and my great-great-grandfather were Ministers of Justice and Foreign Affairs in Württemberg. On my mother's side I come from a noble Swabian family whose ancestors were mostly officers in the Imperial Austrian Army.

Until my twelfth year I was brought up in the country in extreme simplicity, with particular emphasis laid on the duty of truthfulness, responsibility, patriotism, and a Christian way of life, along with Christian tolerance of other religions.

DR. VON LÜDINGHAUSEN: Later you took your school certificate examination and went to the university. Where and when?

VON NEURATH: After having graduated from high school I studied law in Tübingen and Berlin and there passed the two state law examinations.

DR. VON LÜDINGHAUSEN: After your examinations, what official positions did you hold up until the moment when you were appointed Reich Foreign Minister?

VON NEURATH: In 1901 I entered the Foreign Service of the Reich. First of all, I worked at the central office in Berlin, and then in 1903 I was assigned to the consulate general in London. From there I returned to the Foreign Office in Berlin and I worked there in all the departments of that office. In 1914 . . .

THE PRESIDENT: When?

VON NEURATH: 1914.

THE PRESIDENT: Do you mean you were in London for 11 years?

VON NEURATH: Nearly, yes. Then I was sent to Constantinople as an Embassy Counsellor. At the end of 1916 I retired from the diplomatic service because of disagreement with the policy of Reich Chancellor Von Bethmann-Hollweg. Then I became the head of the Cabinet of the King of Württemberg until the revolution at the end of 1918.

In February 1919 the Social Democrat People's Commissioner, Ebert, requested me to return to the diplomatic service. I did so, with the reservation that I might keep my own political opinions, and then became Minister to Denmark, where my principal task was to handle the differences we had with Denmark over the so-called Schleswig question.

In December 1921 I became Ambassador to Rome, with the Italian Government, where I remained until 1930. There I experienced the Fascist revolution, with its bloody events and results. At the outset I had sharp arguments with Mussolini, which gradually, however, developed into a relationship of confidence on his part toward me.

During the first World War I was a captain in a grenadier regiment, and in December 1914 I was decorated, for bravery in action, with the Iron Cross, First Class. I was wounded, and then returned to my post in Constantinople.

DR. VON LÜDINGHAUSEN: What is your attitude toward the Church and religion?

VON NEURATH: As I have already told you, I was educated as a Christian, and at all times I have considered the Christian

Church and Christian morality the foundation of the State. Therefore I tried again and again to persuade Hitler not to allow the anticlerical attitude of certain groups in the Party to become effective. In the case of excesses committed by Party organizations and individuals against the Church and the monasteries and so on I have always intervened, insofar as I was able.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should like to quote from the affidavit given by Provincial Bishop Wurm in Stuttgart. This affidavit is Number Neurath-1 in my Document Book 1. I quote:

> "I became acquainted with Herr Von Neurath at the time of the Church struggle. I thought that I could turn to him as a man from the same province and as a descendant of a family which was friendly toward the Protestant Church. His father was a member of the Protestant provincial synod. I was not disappointed in this confidence. He received me frequently and often arranged conferences for me with other members of the Reich Cabinet. In particular he assisted me in the autumn of 1934, together with Minister of the Interior Dr. Frick and Reich Minister of Justice Dr. Gürtner, when I had been removed from my office and interned in my apartment because of illegal interventions on the part of Reich Bishop Ludwig Müller as a result of my resistance to the domination of the Church by the German Christians. He obtained my release from detention and my reinstatement by the State as Bishop. He also brought about a discussion in the Reich Chancellery, the result of which was a repeal of the illegal legislation on the part of the Reich Bishop. Also during later periods of the Church struggle I always found a friendly reception and full understanding on his part for the concerns of the Church."

I should also like to refer to an affidavit which appears under Number Neurath-2 in my document book. It is an affidavit from an old and intimate friend of the defendant, the lawyer and notary Manfred Zimmerman of Berlin. I should like to quote just a brief passage from this affidavit.

THE PRESIDENT: I do not think it is necessary to read all of it. The Tribunal will, of course, consider it.

DR. VON LÜDINGHAUSEN: Very well, but I had attached importance to it because this second document comes from a man who has known the defendant very closely for 40 years. I was interested, for that reason, in quoting, besides the declaration of Bishop Wurm, a statement by a man who knows his daily life. However, Mr. President, if you believe that it is not necessary for me to read it here, then I shall only refer to it.

THE PRESIDENT: You need not read it at all, but you can draw our attention to the most material passages.

DR. VON LÜDINGHAUSEN: Mr. President, the passage which I was going to quote is on Page 5 of that affidavit, under Paragraph 5. It begins: "Constantin von Neurath, according to his family, education, and development, is a man of sound character in every respect . . ."

Then I can dispense with that.

I should like to present a statement from Pastor Roller and the Mayor of Enzweihingen. This is the community in which Von Neurath resides. This is Number Neurath-24 in my Document Book 1.

Herr Von Neurath, what, in this connection, was your attitude toward the Jewish problem?

VON NEURATH: I have never been anti-Semitic. My Christian and humanitarian convictions prevented that. A repression of the undue Jewish influence in all spheres of public and cultural life, as it had developed after the first World War in Germany, however, I regarded as desirable. But I opposed all measures of violence against the Jews as well as propaganda against the Jews; I considered the entire racial policy of the National Socialist Party wrong, and for that reason I fought against it.

After the Jewish laws had been put in force, I opposed their being carried out and kept non-Aryan members of the Foreign Office as long as was possible. Not until after the Party had obtained the decision regarding the appointment of civil servants did I have to confine myself to defending individual persons. I enabled several of them to emigrate.

The so-called racial law was drawn up by a racial fanatic in the Party, and was passed in Nuremberg in spite of my emphatic protest.

DR. VON LÜDINGHAUSEN: In this connection I should like to refer to and read a short sentence from an affidavit by the former Ambassador Dr. Curt Prüfer. This document is Number Neurath-4 in my document book. Ambassador Prüfer was Ministerial Director in the Foreign Office when Von Neurath was Foreign Minister. I should like to quote briefly concerning his attitude toward officials of different faiths.

THE PRESIDENT: Will you give us the page?

DR. VON LÜDINGHAUSEN: It is Page 9 of the German.

THE PRESIDENT: Yes, and our Page 21?

DR. VON LÜDINGHAUSEN: Yes.

"Neurath in many cases intervened in behalf of officials of the Foreign Office who, because of their race, their religion, or

their former membership in other parties, were objected to by the National Socialists. Thus, until Hindenburg's death, and as long as Neurath still had sole power in all questions relating to civil servants, a number of officials of Jewish or mixed blood remained in their positions. In fact, there were even some promotions of such officials.

"Not until after Hindenburg's death, when the Reich Ministers as well as other department chiefs were deprived of the final decision in all questions relating to civil servants by a decree of the Führer, and this power was transferred to the Deputy of the Führer, did the radicalism of the Party penetrate this sector too, and then, particularly after Neurath's resignation, it assumed increasingly harsh forms."

THE PRESIDENT: Which answer was that?

DR. VON LÜDINGHAUSEN: That was the affidavit of the former Ambassador Dr. Curt Prüfer.

THE PRESIDENT: Yes, I know that. I wanted to know which answer it was.

DR. VON LÜDINGHAUSEN: I see, Number 4. It is an affidavit, it is not a questionnaire in this sense.

THE PRESIDENT: It is paragraphed in our copy, at any rate.

DR. VON LÜDINGHAUSEN: Number 18; it is the answer to Question 18.

May I also draw your attention to an affidavit by Baroness Ritter of Munich. Baroness Ritter is a distant relative of the defendant. She is the widow of the former Bavarian Ambassador to the Holy See. She has known Von Neurath for many years and is very familiar with his way of thinking.

This is Number Neurath-3 in my Document Book 1, and I should like to quote from Page 3, just one short passage:

"The same tolerant attitude which he had toward Christian denominations he also had toward the Jewish question. Therefore he rejected Hitler's racial policy as a matter of principle. In practice he also succeeded in preventing any elimination of Jews under his jurisdiction until the year 1937.

"Furthermore, he helped all persons who were close to him professionally or personally, and who had been affected by the legislation concerning Jews, insofar as he was able, in order to protect them from financial and other disadvantages."

Herr Von Neurath, what was your attitude toward Hitler's anti-Jewish tendencies and measures?

VON NEURATH: In them I saw an anti-Semitism which was not altogether rare in the German people, but had had no practical

effects. I protested to Hitler against all excesses of which I knew, and not simply for foreign political reasons. I begged him, in particular, to restrain Goebbels and Himmler.

DR. VON LÜDINGHAUSEN: In connection with this matter I should like to interpose a question. What did you know about the activities and excesses committed by the Gestapo, the SA, and the SS?

In this connection I should like to put to you the testimony of the witness Gisevius, who was examined here some time ago. He said:

> "Beyond that, I submitted to one of the closest associates of the Foreign Minister at that time,"—that was you—"Ambassador Von Bülow-Schwante, the Chief of Protocol, as much material as I possibly could and, according to the information which Bülow-Schwante gave me, he submitted that material repeatedly."

This is material supposed to refer to excesses, particularly against foreigners, of course.

VON NEURATH: The statement by this witness Gisevius that my Chief of Protocol would generally have had to inform me about the activities of the Gestapo is a thoroughly wrong conclusion. Officially, through complaints from ambassadors and ministers, I heard of brawls and also of arrests by the Police and the SA, but I knew nothing about the general official institutions of the Gestapo and its activities.

In every case which became known to me I demanded, above all, that the Minister of the Interior, the Chief of the Police, and the Gestapo give me an explanation and punish the persons guilty.

DR. VON LÜDINGHAUSEN: What did you know or what did you learn about concentration camps? When did you first hear of this institution at all, and when and from whom did you hear of the conditions which prevailed in these camps?

VON NEURATH: The institution of the so-called concentration camps was known to me from the Boer War. The existence of such camps in Germany became known to me in 1934 or 1935 when two officials of my office, among them the Chief of Protocol mentioned by Herr Gisevius, were suddenly arrested. When I investigated their whereabouts, I discovered that they had been removed to a so-called concentration camp. I sent for Himmler and Heydrich and remonstrated with them, which resulted in a very heated argument. I complained at once to Hitler, and these two officials were released. I then asked them how they had been treated, and both of them agreed in saying that, apart from the lack of freedom, the treatment had not been bad.

The concentration camp to which they had been taken was the camp at Oranienburg. Later on I learned of the existence of a camp at Dachau, and in 1939 I also heard of Buchenwald, because the Czech students who had been arrested by Himmler were taken there.

The extent of the concentration camps as it has become known here, and in particular the treatment of the prisoners and the existence of the extermination camps, are things which I learned about for the first time here in Nuremberg.

DR. VON LÜDINGHAUSEN: By whom and when were you appointed Reich Foreign Minister, and how did that appointment come about?

VON NEURATH: I was appointed Foreign Minister on 2 June 1932 by Reich President Von Hindenburg. Already in 1929, after Stresemann's death, Hindenburg had wanted to appoint me Foreign Minister. At that time I refused, because in view of the party conditions existing in the Reichstag in those days I saw no possibility for a stable foreign policy. I was not a member of any of the 30 or so parties, so that I would not have been able to have found any kind of support in the Reichstag of those days.

Hindenburg, however, obtained my promise that I would answer his call if the fatherland should find itself in an emergency.

DR. VON LÜDINGHAUSEN: In this connection may I quote the telegram in which the Foreign Office informed Herr Von Neurath of the fact that the Reich President desired that he should take a leading position in the Government at this time. This is a copy of the telegram which was transmitted to him by telephone, Number 6 in my document book:

"For the Ambassador personally, to be deciphered by himself.

"Berlin, 31 May 1932."

It was addressed to London.

> "The Reich President requests you, in view of your former promise, to take over the Foreign Ministry in the presidential cabinet now being formed, which will be made up of right-wing personalities free from political party allegiance and will be supported not so much by the Reichstag as by the authority of the Reich President. The Reich President addresses an urgent appeal to you not to refuse your services to the fatherland in this difficult hour. Should you not be able to give an affirmative answer immediately I ask you to return at once."

It is signed by Bülow, who was at that time the State Secretary of the Foreign Office.

I also draw your attention to a copy of the letter from the chief of the Political Affairs Department of the Foreign Office about Neurath's appointment to the post of Reich Foreign Minister, a letter which had been written to a friend of his, Ambassador Rümelin, at the time. The writer of this letter, Ministerial Director Dr. Köpke, will confirm the correctness of the letter, in his examination before this Tribunal, that is to say, the fact that this is the carbon copy of the original addressed to Ambassador Rümelin.

I believe, therefore, that at this moment I need not read the document. The document is Number Neurath-8 in my document book.

[Turning to the defendant.] Did you light-heartedly decide to answer Von Hindenburg's call and take over that difficult post, doubly difficult as it was in those days?

VON NEURATH: No, not at all. I was not the least bit keen on taking over the post of Foreign Minister at that time. I liked my post as Ambassador in London, enjoyed good relations there with the Government and the Royal Family, and I was hoping, therefore, that I could continue to be of service to both countries, Great Britain and Germany. I could not simply overlook Hindenburg's appeal, but even then I did not decide until after I had had a lengthy personal discussion with him in which I stated my own aims and ideas regarding German foreign policy and in which I assured myself of his support of a peaceful development and the means of attaining equality for Germany, the strengthening of her position in the council of nations and the regaining of sovereignty over German national territory.

DR. VON LÜDINGHAUSEN: May I in this connection refer to the affidavit of former Ambassador Prüfer, which I have already cited and which is Number Neurath-4 in my document book. I should like to quote from this document, Paragraph 7, which refers to the appointment of the defendant by Hindenburg. In my German text this is Page 27.

> "In the circles of the higher officials of the Foreign Office it was a well-known fact that when Hindenburg appointed Hitler Reich Chancellor he practically attached the condition that Neurath should remain in office as Foreign Minister. Baron Neurath in no way pushed himself into this office when he assumed it in 1932. On the contrary, as early as 1929, when Hindenburg had asked him to accept the post as Minister, he had declined on the grounds that, not being a member of a party and thus being without party support, he could not consider himself suited to take over a Ministry in a State ruled according to the parliamentary principle. It was not

until 1932, when Reich President Von Hindenburg, whom he especially revered, formed his first so-called Presidential Cabinet that Neurath dropped his misgivings and entered this Cabinet as Foreign Minister."

What was your judgment of the internal situation at the time?

VON NEURATH: The development of party relations in 1932 had come to such a head that I was of the opinion that there were only two possibilities: Either there would have to be some participation of the National Socialist Party, which had grown strong in numbers, in the Government; or, should this demand be turned down, there would be civil war.

The details regarding the formation of the Government in 1933 and Hitler's coming to power have been thoroughly described by the Defendant Von Papen.

DR. VON LÜDINGHAUSEN: What was your own judgment of, and your attitude toward Hitler, toward National Socialism in general and National Socialist ideas and, in particular, toward the Party?

VON NEURATH: I did not know Hitler personally. I despised the methods of the Party during its struggle for power in the State; its ideas were not known to me in detail. Some of them, particularly in the socialist sphere, seemed good to me; others I considered revolutionary phenomena which would be gradually worn away in the manner I had observed during the German revolution in 1918, and later during the Fascist revolution in Italy as well. On the whole, however, I was not in sympathy with them; in any case, in those days I considered that a decisive role played by Hitler and the National Socialist Party in German politics, or Hitler's solo leadership of German politics, was wrong and not in the interest of Germany, especially not in the interest of German foreign policy.

DR. VON LÜDINGHAUSEN: May I in this connection quote another passage from the afore-mentioned affidavit of Ambassador Prüfer, Number Neurath-4 in my document book on Page 28. It is interesting insofar as Prüfer was an official in the defendant's Ministry:

"Baron von Neurath was not a National Socialist. By reason of his origin and tradition he was decidedly opposed to the National Socialist doctrine, insofar as it contained radical and violent principles. This aversion, which he did not attempt to conceal, was particularly directed toward excesses by branches of the Party against people with different views, especially against the Jews and persons of partly Jewish ancestry; beyond that it was directed against the general interference of the National Socialist Party in every vital

expression of the German people and State; in other words, against the claim to totalitarianism, the Führer Principle, in short, against dictatorship. During the years 1936 to 1938, when in my capacity as head of the budget and personnel section I saw him very frequently, Freiherr von Neurath told me, and others in my presence, in unmistakable terms how much the increasingly extreme tendency in German internal and foreign policy filled him with anxiety and disgust."

Mr. President, may I also ask the Tribunal to take judicial notice of the questionnaire of Count Schwerin von Krosigk, the former Reich Minister of Finance, which is Number Neurath-25 in my document book.

Now, proceeding to your foreign political ideas, thoughts, and principles, what was your attitude toward the Treaty of Versailles and the League of Nations?

VON NEURATH: It is in the senseless and impossible provisions of the Versailles Treaty, by which the economic system of the entire world was brought into a state of disorder, that the roots of National Socialism and with it the causes of the second World War are to be found. By combining this Treaty with the League of Nations and by making the League of Nations to a certain extent the guardian of the provisions of this Treaty, its original purpose, namely, of creating understanding among the nations and preserving the peace, became illusory. To be sure, the statute allowed for the possibility of revision. But the League of Nations Assembly made no use of this possibility. After the United States had withdrawn from participation, and Russia, and later Japan also, stood outside this so-called League of Nations, it consisted in the large majority only of a collection of interested parties desiring to maintain the *status quo,* which had been created precisely by the Treaty of Versailles. Instead of removing the tensions which appeared again and again in the course of time, it was the aim of this assembly not to alter the existing state of affairs at all. That a great and honor-loving nation, discriminated against as it was by the Versailles Treaty, could not stand for this for any length of time was something which any farsighted statesman could recognize. And it was not only in Germany that it was pointed out again and again that this must lead to an evil end; but in Geneva, the playground of eloquent and vain politicians, this fell upon deaf ears.

DR. VON LÜDINGHAUSEN: It is undeniably a historic fact that German foreign policy under all governments preceding Hitler's had aimed at bringing about a change in the Treaty of Versailles, though exclusively by peaceful means. Was this policy also that of Hindenburg, or would Hindenburg perhaps have been disposed to choose another solution, a solution by violence and war?

VON NEURATH: No, in no case; not even if Germany had had the military means for that purpose. He told me again and again that a new war would have to be avoided at all costs.

DR. VON LÜDINGHAUSEN: Mr. President, may I draw your attention to, and ask you to take judicial notice of, an extract from a speech made by Count Bernstorff, who was Germany's representative in the League of Nations, on 25 September 1928. It is Number Neurath-34 of my Document Book 2. The translation, however, is not yet available. It will be submitted, I hope, on Monday. I also refer to, and beg you to take judicial notice of, an extract from the speech of former Reich Chancellor Brüning in Kiel on 19 May 1931, which is Number Neurath-36 in my Document Book 2. Also to an extract from the speech made by former Reich Foreign Minister Curtius, the successor and friend of Reich Chancellor Stresemann who had died shortly before, to the League of Nations Assembly.

SIR DAVID MAXWELL-FYFE: My Lord, I was telling Herr Von Lüdinghausen that I have got Volume II. I do not know if the Tribunal have the English translation.

THE PRESIDENT: No, I do not think we have. Sir David, have the Prosecution agreed to relevancy, the admissibility of these documents?

SIR DAVID MAXWELL-FYFE: My Lord, we are not going to make an objection to such short references as have been given so far. Your Lordship will appreciate that I have already stated the position of the Prosecution with regard to the Treaty of Versailles, but as long as it is kept within reasonable bounds as a matter of introduction, I am not taking any formal objection.

THE PRESIDENT: Herr Von Lüdinghausen, the Tribunal has ruled out of evidence a variety of documents which are alleged to show the injustice of the Treaty of Versailles; as the Prosecution have adopted the attitude which they have, the Tribunal will regard these as mere historical documents, but the matter is really irrelevant. The only question is whether the defendants have attempted to overturn the Treaty of Versailles by force. We are not concerned with the justice or injustice.

DR. VON LÜDINGHAUSEN: No, Mr. President, I did not submit the document in order to criticize the Versailles Treaty. I merely wanted to establish the fact that previous governments, too, had pursued with peaceful means the same aims which my client later pursued as Reich Foreign Minister, so that under his direction, therefore, there was no change whatsoever in the nature and aims of German foreign policy with reference to the Western Powers. That was the reason, and not criticism as such.

THE PRESIDENT: I know, Dr. Von Lüdinghausen, but all the evidence that the defendant has been giving in the last few minutes was criticism of the injustice of the Treaty of Versailles.

DR. VON LÜDINGHAUSEN: Yes, that was his general introduction, but I was only trying to prove the continuity of policy.

[Turning to the defendant.] What were your own views regarding the continuation of the foreign policy of the Reich with reference to the question which we have just dealt with?

VON NEURATH: It was my view that the solution of the various political problems could be achieved only by peaceful means and step by step. Complete equality for Germany in all fields, in the military field therefore as well, and also the restoration of sovereignty in the entire territory of the Reich and the elimination of any discrimination were prerequisite conditions. But to achieve this was primarily the first task of German foreign policy.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should once more like to refer you to the affidavit by Ambassador Prüfer, which is Number Neurath-4 in my document book, and I should like, with the permission of the Tribunal, to quote from this, in order to support the statements just made by the defendant, a part of Paragraph 12:

> "Neurath's policy was one of international understanding and peace. This policy was not inconsistent with the fact that Herr Von Neurath also strove for a revision of the severe provisions of the Versailles Treaty. However, he wanted to bring this about exclusively by negotiation and in no case by force. All utterances and directives of his which I as his co-worker ever heard or saw moved in this direction. The fact that Baron Neurath considered himself a defender of the peace is perhaps best illustrated by a statement he made when leaving the Foreign Office. He declared at that time to a small group of his colleagues that now war could probably no longer be avoided. He presumably meant by this that now foreign policy would be transferred from his hands into those of reckless persons."

Herr Von Neurath, then you agreed entirely with Hindenburg in absolutely rejecting any use of force for the purpose of achieving this objective, the revision of the Treaty of Versailles; and you considered the attainment of this goal possible and were a determined opponent of any belligerent developments, which you considered the greatest possible misfortune, not only for Germany but for the entire world?

VON NEURATH: Yes. Germany and the whole world were still in the midst of the serious economic crisis which had been caused by

the regulations of the Treaty of Versailles. Any new development of belligerency, therefore, could lead only to a great disaster.

DR. VON LÜDINGHAUSEN: On 2 June 1932, a few days after you had entered your new office as Foreign Minister, the meeting of the so-called Reparations Conference began in Lausanne, and you and the new Reich Chancellor, Von Papen, participated. Will you tell us very briefly what the purpose of that conference was?

VON NEURATH: The reparations imposed by the Treaty of Versailles, which had never been definitely fixed, were now formally to be settled completely, that is, the final sum was to be decided on. This purpose was accomplished.

DR. VON LÜDINGHAUSEN: At the same time, was there not a meeting of the Disarmament Conference at Geneva?

VON NEURATH: Yes, at almost the same time these negotiations were also taking place.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection, for the purpose of general understanding, I should like to point out that the institution of the Disarmament Conference goes back to a resolution passed by the League of Nations on 25 September 1928, in which the close connection between international security, that is to say, peace among all the European States, and the limitation of armament was emphasized. In this connection, I should like to refer to the text of the resolution passed by the League of Nations, which is Number Neurath-33 in my document book. That is on Page 90 of Document Book 2.

[Turning to the defendant.] Can you give us a brief account of the course of these disarmament negotiations?

VON NEURATH: Well, naturally it is very difficult to give a short account. The Disarmament Conference had been created by the League of Nations for the purpose of bringing about the disarmament of all nations, which was provided for in Article 8 as an equivalent for the German disarmament which had already been carried out by 1927. The negotiations during this Disarmament Conference were, however, suspended after a short time, despite the objections of the German representatives. The preceding negotiations and this adjournment made it quite clear, even at that time, that those states which had not disarmed were not prepared to carry through their own disarmament in accordance with the standards and methods applied to Germany's previous disarmament. This fact made it impossible for Germany to accept a resolution which had been proposed to the Disarmament Conference at this time, and the German representative therefore received instructions to declare that Germany would not participate in the work of the

Disarmament Conference as long as Germany's equal right to equal participation in the results of the conference was not recognized.

THE PRESIDENT: Dr. Von Lüdinghausen, shall we adjourn now?

DR. VON LÜDINGHAUSEN: Yes, Mr. President.

[A recess was taken.]

DR. VON LÜDINGHAUSEN: Mr. President, in regard to the question just put and answered, I should like to refer to several documents and ask you to take official notice of them. I am submitting, or have submitted in my Document Book 2, excerpts from the German memorandum of 29 August 1932, in Document Number Neurath-40; excerpts from an interview of Von Neurath with the representative of the Wolff Telegraph Bureau, the official news bureau of the German Reich, in Document Number Neurath-41 of Document Book 2; excerpts from a statement by Herr Von Neurath to the representatives of the German press on 30 September 1932, in Document Number Neurath-45 of Document Book 2; an excerpt from a letter of the defendant to the President of the Disarmament Conference, Number Neurath-43 of Document Book 2; and finally, I should like to refer to a speech by the German representative at the Disarmament Conference in Geneva, which is Number Neurath-39 in my document book which shows the development of the views and attitude of the defendant, and thereby that of German policy, toward the disarmament negotiations which were resumed on the 16th at the Disarmament Conference.

Herr Von Neurath, in the documents submitted above you emphasize that the disarmament question must be solved exclusively by peaceful means, and that no violence of any kind should be used. Did this tendency, as expressed here, actually correspond to your conviction, and did it represent the guiding principle, and indeed the exclusive guiding principle, of your policy?

VON NEURATH: Yes. During the whole period when I was Reich Foreign Minister no means were used which were not internationally customary and permissible.

DR. VON LÜDINGHAUSEN: On the 16th the negotiations in the Disarmament Conference were to begin again. What was the result of this meeting of the Disarmament Conference?

VON NEURATH: England finally suggested a—at first the Disarmament Conference accomplished nothing; but later there resulted the so-called Five-Power Declaration in December 1932, which had been suggested by England. This declaration recognized Germany's claim to equal rights and to the elimination of those

provisions of the Versailles Treaty which discriminated against Germany.

After this declaration, which was made by the war powers and later by the Disarmament Conference or the Council of the League of Nations itself, Germany's equal rights were recognized for all time. Therefore, Germany could assert her right to renounce Part V of the Versailles Treaty by referring to the obligation of general disarmament undertaken by the signatory powers. This Five-Power Declaration provided the necessary condition for Germany's taking part in the deliberations of the Disarmament Conference once more.

DR. VON LÜDINGHAUSEN: Mr. President, I should like to refer to the text of the Five-Power Declaration of 11 December 1932. It is Number Neurath-47a in my Document Book 2. I should also like to refer to an article by the defendant in the *Heimatdienst* on this recognition of equal rights for Germany. The text is in Number Neurath-48 of my Document Book 2. That was prior to the seizure of power.

[Turning to the defendant.] Now, in January 1933 Hitler was appointed Reich Chancellor; and thus there came about the so-called seizure of power by the NSDAP. Did you participate in any form whatsoever in this seizure of power and in Hitler's appointment as Reich Chancellor?

VON NEURATH: No, I had no part in any stage of the negotiations regarding the appointment of Hitler as Reich Chancellor. No one, not even the Reich President, and certainly no party leader, asked me for my opinion. I had no close relations with any of the party leaders, especially not with the leaders of the National Socialist Party. With regard to this Göring and Papen have testified with absolute correctness.

DR. VON LÜDINGHAUSEN: What feelings did you yourself have on this question of Hitler's appointment as Reich Chancellor, in other words, on the question of the seizure of power by the Party?

VON NEURATH: I had serious misgivings, but, as I said at the beginning, in view of the party situation and the impossibility of forming a government against the National Socialists I saw no other possibility unless one wanted to start a civil war, about the outcome of which there could be no doubt in view of the overwhelming number of Hitler's followers.

DR. VON LÜDINGHAUSEN: In view of your attitude as you have just expressed it, for what reason did you remain Reich Foreign Minister in the newly-formed Hitler Government?

VON NEURATH: At the urgent desire of Hindenburg.

DR. VON LÜDINGHAUSEN: I should like in this connection to refer to the affidavit of Baroness Ritter, Number Neurath-3 in my Document Book 1, which has already been mentioned, and with the permission of the Court I should like to read a short passage from it:

> "When in 1933 a new Government was formed, with Hitler as Reich Chancellor, Hindenburg required from Hitler the condition that Neurath should remain as Foreign Minister. Accordingly Hindenburg asked Neurath to stay, and Neurath complied with Hindenburg's wish in accordance with his previous promise. I know that in the course of time Neurath frequently had serious misgivings, but that he was of the opinion that it was his patriotic duty to remain.
>
> "In this connection I recall the especially fitting comparison of a large rock which by its position right in the middle of the river can decrease the force of the raging current, while on the shore it would remain without influence. He frequently declared, 'When the Germans often wonder why I am co-operating with this Government, they are always thinking only of the prevailing deficiencies, without appreciating how much additional disaster I am still able to prevent. They forget what strength it takes to advance alone through the wall of "Myrmidons"...' "

By that Baroness von Ritter means the close circle surrounding Hitler—to advance through this to Hitler.

[Turning to the defendant.] Do you know for what reasons Hindenburg wanted you to remain, that is, to enter Hitler's Cabinet as Foreign Minister?

VON NEURATH: To secure the continuation of a peaceful foreign policy, and to prevent Hitler from taking the rash steps which were so possible in view of his impulsive nature; in one word, to act as a brake.

DR. VON LÜDINGHAUSEN: Did not Hindenburg make it an actual condition for Hitler's appointment as Reich Chancellor that you should remain as Foreign Minister, that is, enter Hitler's Cabinet?

VON NEURATH: Yes, he told me so later.

DR. VON LÜDINGHAUSEN: In this connection, I should like to refer to the affidavit of former Ambassador Curt Prüfer, Number Neurath-4 in my document book, and I should like to read a short excerpt from it: "Since Hindenburg was a conservative, his basic political attitude..."

THE PRESIDENT: What page is that?

DR. VON LÜDINGHAUSEN: Page 27, Exhibit Number 4.

"Since Hindenburg was a conservative, his political attitude was probably about the same as that of Baron Neurath. There was no doubt in the mind of anybody who was even slightly aware of the conditions that Hindenburg himself, in vesting power in Hitler, did this reluctantly and only under the heavy pressure of domestic political developments. If under such circumstances he insisted, and actually made it a condition, that Baron Neurath, his former foreign political adviser, should remain in office, this undoubtedly was due to the fact that he wanted to assure himself of at least one steady pillar for foreign policy, that is, for peace, in the midst of the seething new forces which certainly appeared sinister and displeasing to him personally."

Did you talk to Hindenburg about this, and did you tell him of your reluctance, your misgivings, about joining the Hitler Cabinet?

VON NEURATH: Yes, I did not leave him in any doubt about that.

DR. VON LÜDINGHAUSEN: What did Hindenburg answer?

VON NEURATH: He told me that I would have to make this sacrifice, else he would no longer have a single quiet hour; that Hitler had not yet had any experience whatsoever in matters of foreign policy.

DR. VON LÜDINGHAUSEN: Was it only then and for this reason that you decided to join Hitler's Cabinet?

VON NEURATH: Yes. The British prosecutor, Sir David, in the session of 1 March of this year, declared that by joining Hitler's Cabinet I had sold my honor and reputation. I refrain from commenting further on this most serious insult.

DR. VON LÜDINGHAUSEN: Mr. President, I should like in this connection to quote a sentence from the *Diary of Ambassador Dodd 1933-37* which is Number Neurath-13 in my document book. I should like to quote the entry under 6 April 1934, on Page 100; that is Page 55 of the German text, which reads as follows. It is a remark of Dodd's which refers to Herr Von Neurath:

"I am sorry for these clear-headed Germans who know world affairs very well and who must work for their country and yet submit to the ignorance and autocracy of Hitler and his followers."

In these talks with Hindenburg did you promise him that you would remain in the Cabinet as long as it would be at all possible for you to guide the foreign political course in a peaceful direction

and avoid warlike developments, even if at some future time Hindenburg should die?

VON NEURATH: Yes. He repeatedly expressed that wish to me.

DR. VON LÜDINGHAUSEN: This was, no doubt, the reason why you remained in office after the death of Hindenburg?

VON NEURATH: Yes. But also because in the meantime I had discovered that Hitler, because of his excitable temperament, often let himself be carried away to take rash steps and in this way could endanger peace. On many occasions, however, I had also learned by experience that in such cases he would listen to my objections.

DR. VON LÜDINGHAUSEN: The Prosecution, as you are aware, has particularly charged you with entering and remaining in Hitler's Cabinet as Foreign Minister, above all, with remaining in the Cabinet after Hindenburg's death.

VON NEURATH: How they can reproach me for that is completely inexplicable to me. I never belonged to a party; I never swore allegiance to party programs, and I never swore any allegiance to party leaders either. I served under the Imperial Government, was asked to re-enter the diplomatic service by the Socialist Government under Ebert, and was appointed Minister and Ambassador by it. I have served under Democratic, Liberal, and Conservative governments. Without identifying myself with their various programs, and often in opposition to the party government of the time, I have pursued only the interests of my fatherland in co-operation with the other powers.

There was no reason for me not to attempt to do the same under Hitler and the National Socialist Party. One could put opposition opinions into effect with any prospect of success only from the inside as a member of the Government. Freedom of speech and the use of the press were forbidden in Germany, or at least made difficult. Personal freedom was endangered. Moreover, it is not greatly different in other countries; I mean by that participation in the governments of various parties, and I might cite the example of Reynaud, or of Lord Vansittart, whom I know well and who was in the English Foreign Office as an influential State Secretary under conservative as well as labor governments.

DR. VON LÜDINGHAUSEN: But, after 30 June 1934 and the bloody events of that time, why did you still remain in the Government? Why did you not resign at that time? You know that the Prosecution has reproached other defendants with remaining in the Government under these circumstances.

VON NEURATH: Aside from the fact that from the description which Hitler gave of the events of the Röhm Putsch at that time

I had to conclude that it had been a serious revolt, I have known a number of revolutions from my own experience, for example, the Russian revolution and, as I already said, the Fascist revolution in Rome, and I have seen that in such revolutions innocent people very often have to suffer. In addition I adapted myself entirely to Hindenburg's attitude; even if I had wanted to resign he would never have let me do so.

As an illustration that I had to acknowledge the seriousness of this revolt and the truth of Hitler's description of it, I should like to mention briefly that on this day, 30 June, a brother of the Emperor of Japan was in Berlin and I had to invite him to dinner. Generaloberst Von Fritsch was also present at this dinner and a number of other high officers and officials of the Foreign Office. The Prince did not make his appearance at the dinner; that is, he came an hour late. When I asked for the reason I learned that my house had also been surrounded by the SA and the Prince had been prevented by them from entering my house. A few days later Generaloberst Von Fritsch, after he had described the events on the military side, asked me whether I knew that he himself, and I as well, had been on Herr Röhm's list. Thus this revolt was not quite as harmless as was described here, I believe, by the witness Gisevius.

DR. VON LÜDINGHAUSEN: Before you decided to enter the Hitler Cabinet, did you talk to Hitler himself about the principles and the line of foreign policy which you intended to pursue?

VON NEURATH: Yes, in detail. I explained to him that only by way of negotiation and by a policy conforming to the international situation could we achieve our ends. This would demand patience. Hitler seemed to understand this at the time, and I had the same impression during the following years, too. I am convinced that he at that time entirely approved the continuation of this policy and honestly meant it. He repeatedly emphasized that he knew what war was like and did not want to experience another one.

DR. VON LÜDINGHAUSEN: I should like once more to refer to the affidavit of Ambassador Prüfer, Number Neurath-4 in my Document Book 1, and, with the permission of the Court I should like to quote the following:

> "Neurath's policy was one of international understanding and peace . . ."—That is Page 29—"This policy was not consistent with the fact that Herr Von Neurath also strove for a revision of the severe provisions of the Versailles Treaty. However, he wanted to bring this about exclusively by negotiation, in no case by force."
>
> Then on the same page . . .

THE PRESIDENT: Have you not read this already?

DR. VON LÜDINGHAUSEN: Yes. I want now to read a passage following this:

"I am certain that Freiherr von Neurath, as well as other career officials in the Foreign Office, had no concrete knowledge of any possible plans for violence on Hitler's part. On the contrary, during the first years after the change of government one generally lent credence to the oft-repeated declaration of peaceful intentions by the National Socialist leaders. I am even of the opinion that the latter themselves, during the first years, did not want to bring about a war. Rather was it believed and hoped in the highest circles of the Party, to which Neurath did not belong at all, that it would be possible to continue winning cheap laurels without war through the hitherto successfully practiced tactics of bluff and sudden surprise. It was not until later that the megalomania arising from the belief in their own luck and their own infallibility and invincibility, which had assumed mystic proportions caused by unrestrained sycophancy, led Hitler and his immediate entourage to include war among their instruments of political power. We, the officials of the foreign service, and with us Baron von Neurath, our chief, became aware of this development only gradually and as outsiders. Until about the beginning of 1936 only a very few officials had been admitted into the Party which, for its part, treated the staff of the Foreign Office, including the recently admitted members, with suspicion and distrust."

THE PRESIDENT: Dr. Von Lüdinghausen, is this not really all argument? You are reading at great length.

DR. VON LÜDINGHAUSEN: I have already finished, Mr. President.

[Turning to the defendant.] Did you yourself see in the Party program of the National Socialists any intention or desire to break with other powers?

VON NEURATH: No. Contrary to the allegations of the Prosecution, which do not gain in accuracy by repetition, I cannot possibly detect any intention to resort to armed hostilities in the event of failure to reach these aims, and from Hitler's various statements I know that he himself at that time, that is, at the beginning of his term of Government, had no such intentions. He wanted as close an understanding as possible with England, and a stable, peaceful relationship with France, which would remove the ancient enmity of the two peoples. The latter, he told me, was the special reason

for his publicly declaring after the Saar plebiscite that he was renouncing once and for all any attempts to regain Alsace.

DR. VON LÜDINGHAUSEN: The Prosecution charges in particular that from the following sentences of the Party program you must have known that the Nazis were pursuing aggressive foreign political ends and that they thus were aiming at war from the very beginning. It reads:

> "We demand the union of all Germans in a Greater Germany on the basis of the right of nations to self-determination. We demand equal rights for the German people in respect to other nations, the repeal of the Treaty of Versailles, and the Treaty of St. Germain."

Will you please comment on this?

VON NEURATH: Even today I fail to detect any aggressive spirit in these sentences which have just been quoted. The right of self-determination is a basic condition in the modern state, recognized by international law. It was also the basis, theoretically at least, of the Treaty of Versailles, and on the same basis the plebiscites were carried out in the border areas. The union of all Germans on the basis of this recognized principle was therefore an absolutely permissible political postulate, as far as international law and foreign policy are concerned.

The removal of the discriminatory terms of the Treaty of Versailles by changing the terms of the Treaty was the essential aim of German foreign policy, as also of all bourgeois and Social Democrat governments which preceded the National Socialists. I cannot see how one can deduce any aggressive intention if a people strives to free itself from the burdens of a treaty which it feels to be unjust, provided that this is done by peaceful means.

And I should like to add that this was the foreign policy which I represented until the moment, at the end of 1937, when I had to realize that Hitler was also considering war a means in his policy. Before, as stated above, there had never been any mention of that.

DR. VON LÜDINGHAUSEN: What was the effect of Hitler's seizure of power in Germany on foreign countries?

VON NEURATH: A perceptible tension and distrust of the new Government was the immediate result. The antagonism was unmistakable. It was especially clear to me at the World Economic Conference in 1933 in London, where I had an opportunity to talk to many old friends and members of other delegations and to inform myself definitely of this change of feeling. The practical effect of this feeling was greater caution in all negotiations, including the session of the Disarmament Conference which was just reopening.

DR. VON LÜDINGHAUSEN: Mr. President, I should like to refer in this connection to a letter which is Number Neurath-11 in my document book. It is a report by Herr Von Neurath to Reich President Von Hindenburg from the London Conference. It is dated 19 June 1933. I shall quote only a very short passage: "Unfortunately I have to state that the impressions I received here are most alarming."

THE PRESIDENT: What page is that?

DR. VON LÜDINGHAUSEN: Page 47.

THE PRESIDENT: Yes, go on.

DR. VON LÜDINGHAUSEN: "In view of the reports of the chiefs of our foreign missions I was prepared for many bad manifestations, many gloomy events, and disturbing opinions on the part of foreign countries. Nevertheless, despite all my apprehensions, I had hopes that much of this would perhaps be only transitory, that much could straighten itself out. However, my apprehensions proved more justified than my hopes. I hardly recognized London again. I found a mood there, first in the English world and then in international circles, which showed a retrogression in the political and psychological attitude toward Germany which cannot be taken seriously enough."

Now further negotiations were held in the main committee of the Disarmament Conference in the winter of 1933-34. Can you briefly describe the course of these negotiations? It is important in view of later events.

VON NEURATH: A French plan of 14 November 1932 was the basis of the negotiations at that time. This plan, surprisingly enough, provided for the transformation of professional armies into armies with a short period of service, for according to the opinion presented by the French representative at that time only armies with a short period of service could be considered defensive armies, while standing armies consisting of professional soldiers would have an offensive character.

This point of view on the part of France was completely new and was not only exactly the opposite of France's previous point of view, but it was also a change from the provisions laid down in the Versailles Treaty for the disarmament of Germany. This meant for Germany—at whom it was obviously aimed—the elimination of its standing army of 100,000 men. In addition, by this new plan France let it be seen that she herself did not want to disarm. A statement by the French representative, Paul-Boncour, in the session of 8 February 1933 confirmed this.

France also maintained the same point of view in the subsequent discussions about the so-called working program presented by England on 30 January 1933 by means of which England wanted to speed up the negotiations of the conference. This attempt to expedite the negotiations, which aimed at adjusting the diverging tendencies of the various powers, failed because of the stubborn attitude of France. A change in the program was then made in an attempt to get over these difficulties, whereby the question of army strength was first discussed.

DR. VON LÜDINGHAUSEN: In this connection I should like to submit, and ask the Court to take judicial notice of, Document Number 49 in my Document Book 2. It contains excerpts from the English working program of 30 January 1933, and also from my Documents Numbers 46 and 47, which are likewise in Document Book 2. They contain excerpts from the French plan for the unification of continental European army systems. Finally, Number 47 of my Document Book 2 contains excerpts from the speech by Herr Von Neurath at the session of the League of Nations Assembly on 7 December 1932, which describes the negotiations up to that time.

What was the attitude of the Disarmament Conference on the question of the treatment of disarmament as such, that is, the reduction of army strength?

VON NEURATH: To discuss this I must refer to notes to a great extent, because it is not possible to keep all these details, motions, and formulations in one's head. The subject matter goes into detail so much that I can only do it by means of notes.

THE PRESIDENT: Dr. Von Lüdinghausen, we have been the whole morning at this, and we haven't yet really got up to 1933. The Tribunal thinks this is being done in far too great detail. As I have already pointed out, a great deal of it is an attempt to show that the Treaty of Versailles was unjust, which is irrelevant.

DR. VON LÜDINGHAUSEN: Mr. President, if I may say the following, I do not wish to show the injustice of the Versailles Treaty; but I must . . .

THE PRESIDENT: Well, Dr. Von Lüdinghausen, will you kindly get on? As I say, we think you are going into it in far too great detail.

DR. VON LÜDINGHAUSEN: Very well.

What happened now, Herr Von Neurath, in order to get the negotiations going again? On 16 March the British Prime Minister submitted a new plan . . .

THE PRESIDENT: We have nothing to do with the disarmament program.

DR. VON LÜDINGHAUSEN: Mr. President, I must nevertheless show what the entire background and mood were, in order to explain more exactly the motives for our withdrawal from the League of Nations, with which we have been reproached; for Germany's withdrawal followed in the fall of 1933 . . .

THE PRESIDENT: There is nothing against Von Neurath in having influenced Germany to resign from the League of Nations, is there?

DR. VON LÜDINGHAUSEN: Yes, there is. I can explain the withdrawal from the League of Nations only on the basis of the preceding events. I cannot say in three words that this and that was the reason; rather must I explain how gradually a certain atmosphere came about, and what the circumstances were which left no other choice to the German Government except to leave the Disarmament Conference and the League of Nations, for these factors explain the decision of the German Government to rearm. In history and in politics decisions and actions are always the consequence of what went before them. In the development of these political conditions we are indeed concerned with a period of development extending over several years, not with a spontaneous event or a spontaneous decision. In the case of a military order, to be sure, I cannot say that this order came about through orders of the other side; rather must I describe . . .

THE PRESIDENT: Dr. Von Lüdinghausen, we do not need all this argument. We only desire you to get on. I am pointing out to you that you have been nearly the whole of the morning, and we have not yet got up to 1933.

VON NEURATH: Mr. President, I shall try to be very brief in coming to this period of time, the withdrawal from the League of Nations and the Disarmament Conference.

The negotiations, as I said, dragged on the whole year, into the summer of 1933. In the fall there was again a Disarmament Conference session in which the same subject was more or less debated over again. Well, the result of this conference was that disarmament was definitely refused by the Western Powers and that was the reason why we then first of all withdrew from the Disarmament Conference, since we considered useful work there no longer possible. Following this, we also withdrew from the League of Nations, since we had witnessed its failure in the most widely different fields.

And so, quite briefly, that brings us up to the point which caused us to withdraw from the League of Nations. The reasons which caused us to do so at that time I have discussed explicitly in a speech which my defense counsel can perhaps submit.

DR. VON LÜDINGHAUSEN: What date do you mean, Herr Von Neurath?

VON NEURATH: October 1933—16 October, a speech to the foreign press. In this speech I said that the withdrawal from the Disarmament Conference and the League of Nations by no means meant that Germany refused to take part in any negotiations or discussions, especially with the Western Powers.

DR. VON LÜDINGHAUSEN: Mr. President, this speech is the excerpt on Page 59 in my document book. Since it is essentially the same thing that Herr Von Neurath has just stated, except that it is in more detail, I am prepared to forego reading the actual excerpt, as I had intended to do.

In this connection I must call attention to the documents which I have submitted for this entire period of time which we have rather skipped over, so that they will at least provide a picture of how things had gradually come to a head by the middle of October. In this connection I should like to refer to Document Neurath-56, a speech by Herr Von Neurath to the foreign press; then Hitler's appeal to the German people, Number Neurath-58; to the document just quoted, Number Neurath-59; to the German memorandum on the question of armament and equal rights of 18 December 1933, Document Neurath-61; Number Neurath-62, an interview with Herr Von Neurath by the Berlin representative of *The New York Times* on 29 December 1933; the German answer to the French memorandum of 1 January 1934, Number Neurath-64 in my Document Book 3; the German memorandum of 13 March 1934, Number Neurath-67; the speech of the President of the Disarmament Conference, Sir Nevile Henderson, of 10 April 1934, Number Neurath-68; and finally, the *aide-mémoire* of the Reich Government to the British Disarmament memorandum of 16 April, Number Neurath-69.

I have just been informed that I gave the wrong first name. That was Arthur Henderson.

[Turning to the defendant.] In the middle of April 1934 a very important event occurred. Will you comment on this; for this declaration, this note, caused a complete *volte-face,* a change in European politics.

VON NEURATH: This was a French note which was addressed to the British Government as an answer to a British inquiry and to a German memorandum of 13 March 1934, which had dealt with the continuation of the negotiations. The details are contained in this speech to the Berlin press which has just been cited. With this French note, however, the efforts to come to a settlement in the disarmament question again failed because of the French Government's "no."

DR. VON LÜDINGHAUSEN: I should like to refer to various documents on this, which I have submitted in my Document Book 3; Number Neurath-66, an excerpt from a speech by the Belgian Premier, Count Broqueville, of March 1934; an excerpt from the diary of Ambassador Dodd, Number Neurath-63; then Number Neurath-70, an excerpt from the note of the French Government, which was just mentioned, to the British Government on 17 April 1934; the speech of Foreign Minister Von Neurath, the defendant, to representatives of the Berlin press, in which he commented on this French note, Number Neurath-74 in my document book; finally, an excerpt from the speech of the American delegate at the Disarmament Conference, Norman Davis, of 29 May 1934. In these the sudden change in European politics which I have just alluded to . . .

THE PRESIDENT: Did you give the number of that?

DR. VON LÜDINGHAUSEN: The last one, Mr. President?

THE PRESIDENT: Yes.

DR. VON LÜDINGHAUSEN: Number Neurath-76.

THE PRESIDENT: Yes; go on.

VON NEURATH: I think that before I answer this question, I might perhaps comment on something else. The Prosecution showed me a speech by Hitler on 23 September 1939 to the commanders of the Army, in which he speaks of the political and organizational measures which preceded the war.

THE PRESIDENT: You say that was on 23 September?

VON NEURATH: 23 September 1939. The Prosecution sees in the mention of the withdrawal from the League of Nations and the Disarmament Conference a sign of aggressive intentions which were already in existence at that time, and reproaches me with this.

As I have repeatedly emphasized, up to 1937 there had never been any talk at any time of any aggressive intentions or preparations for a war of aggression. The speech mentioned by the Prosecution was made by Hitler 6 years after these events and 18 months after my resignation as Foreign Minister. It is clear that to a man like Hitler these events, at such a moment, after the victorious termination of the Polish war, appeared different from what they had actually been. These events, however, cannot be judged afterwards, that is, before the date of the speech, any more than German foreign policy can be judged today, but they must be regarded from the point of view prevailing at the time at which they took place.

And now in answer to your question: In my opinion the reasons lie, first of all, more or less in the fact that the course of the

preceding diplomatic negotiations had shown that England and Italy no longer stood unconditionally behind France and were no longer willing to support France's strictly antagonistic attitude toward the question of equal rights for Germany. The same point of view was held by the neutral states—Denmark, Spain, Norway, Sweden, and Switzerland—in a note addressed to the Disarmament Conference on 14 April 1934. Therefore, at the time France apparently feared being isolated and thus falling into the danger of not being able to maintain her refusal to undergo any form of disarmament. I myself commented in detail on this attitude on the part of France, from the German point of view, in my aforementioned speech to the German press on 27 April 1934, I believe.

DR. VON LÜDINGHAUSEN: What were the further consequences of this French note of 17 April, as far as the attitude of French foreign policy was concerned?

VON NEURATH: Just a few days after this note the French Foreign Minister, M. Louis Barthou, undertook a trip to the East, to Warsaw and Prague. As was soon apparent, the purpose of this trip to Poland and Czechoslovakia was to prepare the ground for a resumption of diplomatic relations between these countries, and the other countries of the so-called "Little Entente," and the Soviet Union and thus to smooth the way for the inclusion of Russia as a participant in European politics.

Barthou's efforts were successful. Poland as well as Czechoslovakia and Romania resumed diplomatic relations with Russia. On a second trip Barthou was able to get the agreement of all the states of the Little Entente to the Eastern pact proposed by France and Russia.

DR. VON LÜDINGHAUSEN: Were not negotiations undertaken at the same time for an Eastern pact which later also proved to be an instrument directed against Germany?

VON NEURATH: Yes. I just mentioned it. An Eastern pact was worked out and presented which we would have accepted, as far as the basic principle was concerned, but which then came to naught because we were supposed to undertake obligations which we could not keep, namely an obligation to give aid in all cases of conflict which might arise among the Eastern nations. We were in no position to do this, and thus the Eastern pact came to naught.

DR. VON LÜDINGHAUSEN: May I, in connection with the statements just made, refer to three documents in my Document Book 3; Number Neurath-72, an official communiqué on 24 April 1934 about the Warsaw discussions of the French Foreign Minister; Number Neurath-73, an official communiqué about the Prague discussions of the French Foreign Minister on 27 April 1934; and

an excerpt from a speech of the French Foreign Minister of 30 May 1934, Number Neurath-77.

What was your further policy after the rather abrupt breaking-off of negotiations caused by this French note?

VON NEURATH: We tried first of all by means of negotiations with the individual powers to bring about permanent and real peace on the basis of the practical recognition of our equal rights and general understanding with all peoples. I had given the German missions abroad the task of carrying on talks to this effect with the respective governments.

In order to get negotiations going again, Hitler had decided to accept an invitation from Mussolini for a friendly talk in Venice. The purpose of this meeting, as Mussolini later said, was to attempt to disperse the clouds which were darkening the political horizon of Europe.

A few days after his return from Venice Hitler made an important speech in which he reaffirmed Germany's desire for peace.

DR. VON LÜDINGHAUSEN: Mr. President, I should like in this connection to refer to my Document Number Neurath-80 in Document Book 3, which is an excerpt from this Hitler speech in Gera on 17 June 1934—only the part of interest from the foreign political point of view, of course.

Would you like to break off now, Mr. President?

THE PRESIDENT: Dr. Von Lüdinghausen, the Tribunal hopes that on Monday, when you continue, you will be able to deal in less detail with this political history, which, of course, is very well known to everyone who has lived through it, and particularly to the Tribunal who have heard it all gone into before here.

DR. VON LÜDINGHAUSEN: I shall endeavor to do so, Mr. President.

[The Tribunal adjourned until 24 June 1946 at 1000 hours.]

ONE HUNDRED AND SIXTY-SECOND DAY

Monday, 24 June 1946

Morning Session

[The Defendant Von Neurath resumed the stand.]

DR. VON LÜDINGHAUSEN: Herr Von Neurath, I have been told, and I also heard it on the radio, that yesterday apparently a mistake arose, possibly due to poor translation, regarding your activity from 1903 to 1914. Perhaps you can repeat it, for I believe that the Court also misunderstood your statement.

VON NEURATH: It probably concerns my stay in London. From 1903 to 1907 I was in London, and after that I was in the Foreign Office in Berlin.

DR. VON LÜDINGHAUSEN: Then we will continue the presentation of your policy as Foreign Minister. I should like to ask the following questions:

In the fact that during your period of office as Foreign Minister, in the spring of 1935, general rearmament was begun, compulsory military service was reintroduced, and the Luftwaffe was created, the Prosecution sees proof of your guilt in the alleged conspiracy against peace. Will you comment on this?

VON NEURATH: First, I should like to emphasize that there was no question of war plans in Germany in this year and in the following years. I am also perfectly convinced that at that time neither Hitler nor his entourage had any aggressive plans, or even considered any aggressive plans, for that would not have been possible without my knowing about it.

Rearmament as such involves no threat to peace unless it is decided to use the newly made weapons for purposes other than defense. There was no such decision and no such preparation at that time. The same charge of preparations for aggressive war could be held against all the neighboring states of Germany, who were rearming in precisely . . .

THE PRESIDENT: One moment. Dr. Von Lüdinghausen, this is argument, not evidence.

DR. VON LÜDINGHAUSEN: Mr. President, I must hear how things appeared to him. Decisions for action can only be excused if I explain . . .

THE PRESIDENT: No, we are not prepared to hear argument in the course of evidence. It is evidence for him to say that there were no plans made at that time for offensive action, but it is argument to say that rearmament does not necessarily involve offensive action. We do not desire to hear argument at this stage.

DR. VON LÜDINGHAUSEN: Yes.

Then please answer the question once more, whether there were in fact no plans to use the weapons created by rearmament for any aggressive purposes or for other violent action?

VON NEURATH: That is what I just said. I do not believe I need repeat it.

DR. VON LÜDINGHAUSEN: What reasons were there, what facts, which made the situation of Germany appear particularly perilous?

VON NEURATH: At that time Germany could not help feeling she was encircled by her highly armed neighbors. Russia and France had concluded a mutual assistance pact which could only be called a military alliance. It was immediately followed by a similar treaty between Russia and Czechoslovakia. According to her own statements, Russia had increased the peacetime strength of her army by more than half. How strong it actually was could not be ascertained. In France, under the leadership of Pétain, efforts were being made to strengthen the Army considerably. Already in 1934 Czechoslovakia had introduced 2-year military service. On 1 March 1935 France issued a new defense law, which also increased the period of military service. This whole development, which had come about in a few months, could only be considered as an immediate threat. Germany could no longer be a defenseless and inactive spectator. In view of these facts the decision which Hitler then made to reintroduce compulsory military service and gradually to build up an army of 36 divisions was not an act which seriously threatened the neighboring countries bound together by alliances.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should like to ask you to take judicial notice of the following documents in my document book:

Number 87, a document on the entry of the Soviet Union into the League of Nations of 18 September 1934, in Document Book 3. Number 89, also in Document Book 3, is a statement of the reporter of the Army Committee of the French Chamber, of 23 November 1931, on the entente with Russia. Number 91, in Document Book 3, is the Russian-French Protocol to the Eastern Pact negotiations of 5 December 1934.

M. DEBENEST: Mr. President, I should like to say that Document 89 has not been submitted to us as yet. Therefore, it has not

been possible to examine this document and to say whether or not this document is relevant.

THE PRESIDENT: When you get the book you will have the right to object to the document, if necessary. Dr. Von Lüdinghausen is only telling us what documents he contends support the evidence which has just been given, that is all. He is offering these documents in evidence, and as soon as you get the book and can scrutinize the document, you will have the opportunity of making an objection to its admissibility.

M. DEBENEST: That is exactly the point, Mr. President. I wished to reserve for myself the right to do that.

THE PRESIDENT: Yes, we agree with you.

DR. VON LÜDINGHAUSEN: Then comes Document 92, in Document Book 3, the call to the Army made by the President of the Czechoslovakian Republic on 28 December 1934.

In Document Book 3, Number 96 is the French Government declaration of 15 March 1935.

In Document Book 3, Number 79 is a report of the Czech Minister in Paris, Osusky, of 15 June 1934.

Document 101 is the Franco-Russian Mutual Assistance Pact of 2 May 1935.

Document 94 is an excerpt from the speech of the French President, Flandin, to the French Chamber on 5 February 1935.

I ask you to take judicial notice of these documents.

[Turning to the defendant.] Was Germany's decision to rearm intended to mean that she would discontinue all further co-operation in international efforts to limit general rearmament?

VON NEURATH: No, by no means. An English inquiry as to whether Germany would be ready to continue to participate in general disarmament negotiations in the same manner and to the same extent as laid down in the so-called London Communiqué of February 1935 was immediately answered in the affirmative. On 18 March—that is, 2 days after the introduction of military service—the Embassy in London was instructed to resume negotiations and, in particular, to suggest an agreement to limit the strength of the Navy.

In May 1935 Hitler made a speech to the Reichstag, in which he expounded a concrete German plan for peace. He emphasized particularly the German will for peace, and again declared himself willing to co-operate in any system of international agreements for the maintenance of peace, even collective agreements. The only condition he made, and this he had always done, was the recognition of Germany's equal rights. He also declared himself willing to

rejoin the League of Nations. By so doing he wanted to prove that Germany, in spite of the conclusion of military alliances which she felt to be a threat, and our own rearmament, continued to desire peace.

DR. VON LÜDINGHAUSEN: I wish to ask the Tribunal to take judicial notice of the following documents in my Document Book 3:

Number 95, answer of the Reich Government of 15 February 1935, to the so-called London Communiqué.

Number 97, an excerpt from the appeal of the Reich Government of 16 March 1935, for the reintroduction of the German military service.

Number 98 is the communiqué of 26 March 1935 on the talks of the British Foreign Minister, Sir John Simon, and the Lord Privy Seal, Mr. Eden, with the Reich Government.

Number 102 is the communiqué of 15 May 1935 on the speech of Foreign Minister Laval in Moscow.

Number 104, Hitler's speech of 21 May 1935 on the Russian-French Pact.

Number 105, the note of the Reich Government of 25 May 1935 to the signatory powers of the Locarno Treaty.

[Turning to the defendant.] Did the German efforts and willingness to negotiate have any success?

VON NEURATH: Yes; they led to the conclusion of the first and only agreement to limit armaments which was actually put into effect on the basis of the German proposals by the signing of the Anglo-German Naval Agreement in June 1935. Of course, I would have preferred it if the negotiations with all countries concerning proposals for armament limitation had been successful. Nevertheless, this agreement between only two states was warmly welcomed by us as the first step in this direction. We know that at least England held aloof from the decision of the League of Nations stating that Germany had broken the Versailles Treaty by rearming. The German step was thus recognized as justified.

DR. VON LÜDINGHAUSEN: In this connection I should like to ask the Court to take judicial notice of two documents from my Document Book 3:

Document Number 106 is a statement by the First Lord of the Admiralty, Sir Bolton Eyres-Monsell, over the British radio on 19 June 1935.

The second is Document Number 119, an excerpt from the statement of the Parliamentary Secretary of the Admiralty, Mr. Shakespeare, in the House of Commons on the occasion of the ratification of the London Naval Agreement on 20 July 1936.

[Turning to the defendant.] Was German activity in the direction of disarmament limited to the German-English Naval Agreement?

VON NEURATH: No; our willingness to co-operate in a positive way for the limitation of armaments, which had been declared by us on many occasions, also found expression in the negotiations for disarmament in the air. Right from the outset, as early as 1933, Hitler had stressed the importance of this point for the maintenance of peace. Germany was ready to accept any limitation, and even the complete abolition of air armament, if it was done on a reciprocal basis. But only England reacted to such suggestions. The difficulty was to persuade France to participate in the negotiations. She did this only after 3 months through the efforts of England. But France stipulated conditions which made it practically impossible for these negotiations to succeed.

Apart from a general agreement embracing all European states, special bilateral agreements were to be permitted. In addition, the continuation of negotiations on air armament was to be made dependent on negotiations concerning the Eastern Pact. Germany could not participate in this Eastern Pact, since she would have had to assume military obligations whose consequences could not be foreseen.

Owing to this and the outbreak of the Italian-Abyssinian war, which brought the differences among the Western Powers into the open, the negotiations came to a standstill.

DR. VON LÜDINGHAUSEN: One year later, in March 1936, the Rhineland was reoccupied by German troops. The Prosecution see in this a breach of the Locarno Treaty and further proof of your coresponsibility in the alleged conspiracy against peace. Will you please comment on this?

VON NEURATH: This assertion is completely untrue. There was no decision or plan to wage aggressive war any more than there had been the year before. The restoration of full sovereignty in all parts of the Reich had no military, but only political significance.

The occupation of the Rhineland was carried out with only one division and this fact alone shows that it had only a purely symbolic character. It was clear that a great and industrious people would not tolerate forever such a drastic limitation of its sovereignty as had been imposed by the Versailles Treaty. It was simply a dynamic development which the leaders of German foreign policy could not oppose.

DR. VON LÜDINGHAUSEN: Did the reoccupation of the Rhineland take place according to a plan which had been made some time beforehand, or was the decision spontaneous?

VON NEURATH: It was one of those sudden decisions of Hitler which was to be carried out within a few days.

DR. VON LÜDINGHAUSEN: What were the events which led to this immediate decision?

VON NEURATH: On 16 January 1936, the French Foreign Minister, M. Laval, announced that after his return from Geneva he would present the Russian-French Pact to the French Chamber for ratification. The fact that Hitler, in an interview with M. de Jouvenel, the correspondent of the reputable French paper *Paris Midi,* while pointing out the dangers of this pact, once again held out his hand to France in an attempt to bring about an honorable and permanent understanding between the two peoples, was of no avail. I had previously discussed this interview in detail with Hitler, and I received the definite impression that he was absolutely serious in his desire for a permanent reconciliation of the two peoples. But this attempt also was in vain. The strong opposition to the pact from large portions of the French people, under the leadership of the *Union Nationale des Combattants,* and in Parliament itself could not prevent the French Government from ratifying the pact. The voting took place on 27 February 1936 in the French Chamber.

DR. VON LÜDINGHAUSEN: I should like to ask the Court to take note of the following two documents from my Document Book 4: The first is Number 108, Hitler's interview with the correspondent of *Paris Midi,* M. de Jouvenel, of 21 February 1936. The second is Number 107, an excerpt from the speech of the Deputy Montigny in the French Chamber on 13 February 1936.

On 7 March 1936, by way of answer to the ratification of this treaty, the German troops marched into the demilitarized Rhineland zone. What considerations caused the German Government to take this very serious step? In view of the hostile attitude of the French, there was a danger that this time the Western Powers would not be satisfied with paper protests and resolutions by the League of Nations, but would proceed by force of arms against this one-sided . . .

THE PRESIDENT: Dr. Von Lüdinghausen, is this a question or a statement?

DR. VON LÜDINGHAUSEN: It is a question. I should like to know the attitude of the Government at that time. If I may make a comment, I must hear these explanations on the grounds for the decisions taken at that time from the defendant himself, for when in my final address . . .

THE PRESIDENT: You were stating a number of facts. It is not for you to state facts. It is your duty to ask the witness.

DR. VON LÜDINGHAUSEN: I did not want to state facts. I wanted to know from the witness what considerations led to the decision.

[Turning to the defendant.] Will you please describe to us what factors entered into your consideration at that time?

VON NEURATH: In my previous answers I have already stated why we saw in the Franco-Russian Pact and in France's whole attitude a most serious threat. This accumulation of power in French hands through the various mutual assistance pacts could be directed only against Germany. There was no other country in the world at which it could be directed. In the event of hostilities—a possibility which, in view of the whole situation, any responsible government would have to reckon with—the western border of Germany was completely open owing to the demilitarization of the Rhineland. This was not only a discriminating provision of the Versailles Treaty, but also one which threatened Germany's security most. However, it had become obsolete through the decision of 11 December 1932 by the Five Powers in Geneva.

THE PRESIDENT: Dr. Von Lüdinghausen, the Tribunal thinks this is all argument. If there are any facts as to what the German Government did at the time, after the French and Russian Pact and before the entry into the Rhineland, the witness can give these facts, but this is mere argument and the Tribunal is well aware of the argument. It does not require them to be restated, and certainly not to be restated in the course of the evidence.

DR. VON LÜDINGHAUSEN: Mr. President, I merely wanted to avoid that when later in my final speech I refer to this point, the objection might be made that these are my opinions. I want to show . . .

THE PRESIDENT: Dr. Von Lüdinghausen, that is quite a wrong conception. We are now hearing evidence. When we hear you we shall be hearing arguments and we shall be prepared to hear any argument from you.

DR. VON LÜDINGHAUSEN: Yes, but I want to avoid it being said these are my arguments. These arguments come from the defendant.

THE PRESIDENT: I am pointing out to you that it is the function of counsel to argue and it is the function of the Tribunal to listen to argument. It is not the function of the Tribunal to listen to argument in the course of evidence.

DR. VON LÜDINGHAUSEN: Very well.

VON NEURATH: Perhaps I may make one statement. In the course of the winter of 1936, we had learned through our military

intelligence service that the French General Staff already had a military plan for invading Germany. This invasion was to take place through the Rhineland and along the so-called Main River line toward Czechoslovakia in order to join the Russian ally.

DR. VON LÜDINGHAUSEN: On the basis of what the President just said, I shall dispense with the evidence, or rather with your considerations, and reserve for myself the right to bring this up in my final speech. I should like to ask just one more question. Did the decision to reoccupy the Rhineland constitute any aggressive intention for the moment or later on?

VON NEURATH: No, none whatever. The reoccupation, as can be seen from my statements, had a purely defensive character and was not intended to have any other purpose. The occupation by such a weak force as a single division made it clear that it was a purely symbolic act. It has been testified to here by the military—the witness Milch, for example—that the Luftwaffe had no part whatever and had learned of the action only 2 or 3 days before. That there were no aggressive plans for the future is shown by the fact that the German Government, at the suggestion of England, on 12 March 1936 undertook, until such time as an understanding had been reached with the Western Powers, particularly with France, not to increase the garrisons in the Rhineland and not to move the troops any closer to the border than they were already, on condition, however, that France would do the same. France did not want to accept this offer. Then, in the memorandum of 7 March 1936 addressed to the signatory powers of Locarno, which the Prosecution has already submitted here, Germany not only made definite suggestions for an agreement with France, Belgium, and the other Locarno Powers, but also declared her willingness to sign a general Air Pact to avoid the danger of sudden air raids, and in addition to join the League of Nations again. In a speech to the Reichstag on 7 March 1936 Hitler explained to the world the reasons for the reoccupation of the Rhineland. This speech, as well as the memorandum, I had discussed beforehand with Hitler, and I can only repeat that I did not have the slightest suspicion that Hitler was not honest or that he was trying to conceal his real intentions which tended toward war. Even today I have the firm conviction that at that time Hitler was not thinking of war. I need not emphasize that any such intention was far from my own thoughts. On the contrary, I considered the restoration of sovereignty throughout the Reich a step toward peace and understanding.

THE PRESIDENT: Let us get on. Dr. Von Lüdinghausen, you are allowing the defendant to make long, long speeches. That is not the object of evidence.

DR. VON LÜDINGHAUSEN: I should like to submit various documents in this connection and ask the Court to take judicial notice of the following documents in my Document Book 4. First, Number 109, memorandum of 7 March 1936 from the Reich Government to the signatory powers of the Locarno Treaty; Number 112, the official statement of the German Reich Government on 12 March 1936, and Number 113, the communication from the German Ambassador in London to the British Foreign Minister Mr. Eden, on 12 March 1936; and Number 116, a memorandum dated 3 January 1936 sent by the German Government to the British Government through the Ambassador Extraordinary in London, Herr Von Ribbentrop.

[Turning to the defendant.] What were the consequences of the reoccupation of the Rhineland as far as foreign policy was concerned?

VON NEURATH: In consideration of the wishes of the President of the Court, I will not comment on this question.

DR. VON LÜDINGHAUSEN: What did the Western Powers do? Did they take any political or diplomatic steps?

VON NEURATH: Foreign Minister Eden said in the House of Commons that Germany's procedure did not constitute any threat and promised to give careful considerations to the German peace proposals.

DR. VON LÜDINGHAUSEN: I should like to submit and ask the Court to take judicial notice of the following documents in my Document Book 4: Number 125, excerpts from a speech by the American Under Secretary of State, Mr. Sumner Welles, on the Versailles Treaty and Europe, of 7 July 1937; Document Number 120, excerpt from the decree of the People's Commissars of Russia on the reduction of the age for military service; and Number 117, a report from the Czechoslovakian Minister in The Hague dated 21 April 1936.

Herr Von Neurath, did you or the Foreign Office forego any further steps and attempts toward a peaceful understanding with the other European powers, or did they continue?

VON NEURATH: These efforts were continued. The next opportunity was provided by our relations with Austria. The development of these relations since 1933 has already been described in detail before the Court; but I should like especially to stress the fact that in our relations with Austria my views remained unchanged from start to finish, that is, I wanted a close economic connection, such as a customs union, between the two countries and a foreign policy run on common lines on the basis of state treaties and close contact between the two Governments, but whatever happened I wanted to see the full independence of Austria guaranteed. For

that reason I was always a determined opponent of any interference in the internal political affairs of Austria, and I was against any support being given to the Austrian National Socialists by the German National Socialists in the fight of the former against Dollfuss and Schuschnigg; and I constantly urged Hitler to take the same line. I need not repeat that I sharply condemned the murder of Dollfuss from the moral as well as the political point of view and that the Foreign Office under my direction had nothing whatever to do with this murder, as the Prosecution recently asserted. But that Hitler too had absolutely nothing to do with the murder, I can confirm from various statements which he made to me. The deed was carried out by Austrian National Socialists, some of whom were much more radical than the Germans. This attitude of mine is best proved by the fact that when shortly after the murder of Dollfuss the German Minister in Vienna, Herr Rieth, without my knowledge demanded of the Austrian Government safe conduct to Germany for several persons involved in the murder, I at once recalled him from Vienna and dismissed him from the Foreign Service. I myself, as well as a number of other ministers, also opposed the travel embargo imposed on Austria by Germany.

But I did welcome the efforts for an understanding with Austria, which started in 1935 and were carried through with success by Herr Von Papen, and I always tried to influence Hitler to bring this about. As to Von Papen's actions in Vienna during this time, I was only imperfectly informed, as Herr Von Papen was not subordinate to me and received his orders directly from Hitler. It was only during this Trial that I learned about the series of letters which Von Papen wrote to Hitler.

DR. VON LÜDINGHAUSEN: I should like to quote two passages; one is from a letter from Herr Von Neurath to the head of the political section of the Foreign Office dated 28 June 1934, Number 84 in my Document Book 3, Page 227, which says in regard to conditions at that time:

"The development of events in Austria cannot be foreseen. It appears to me, however, that the acute danger . . ."

THE PRESIDENT: You are going a little bit too fast. You did not observe the light. Go on.

DR. VON LÜDINGHAUSEN: "The development of events in Austria cannot be foreseen. It appears to me, however, that the acute danger has been averted due to rapid action. We should act with great reserve now and to this end I spoke to the Reich Chancellor yesterday. I found complete understanding."

Then I should like to quote a passage from the affidavit of Bishop Wurm, already submitted by me as Number 1 in my Document Book 1, on Page 3. It says:

> "I remember especially his"—Herr Von Neurath's—"severe condemnation of the occurrences in Vienna during which Chancellor Dollfuss was murdered, and of the person used by Hitler during the agitation in Austria."

Then, in this connection, I should like to refer to a document which Herr Seyss-Inquart, or his defense counsel, has already submitted under Number Seyss-Inquart-32, which is an interview of the State Chancellor, Dr. Renner, of 3 April 1938. As a precaution, I have included it once more in my Document Book 4, under Number 130.

Herr Von Neurath, you know that the charge is made against you that on 11 July 1936 a treaty was made between Germany and Austria in the course of these negotiations by Von Papen, and that this treaty, which has been discussed here in detail, was concluded with intent to deceive, that is, with the purpose of lulling Austria into a sense of security and preparing for her future incorporation into the Reich. Will you please comment on this point?

VON NEURATH: This assertion is absolutely untrue. In effect I honestly and gladly welcomed this treaty. It corresponded to my point of view in every respect. I saw therein the best means of clearing up the unnatural dissensions, and for that reason I did everything I could to bring it about. The assertion of the Prosecution has been disproved by the statements of the former Austrian Foreign Minister, Dr. Guido Schmidt. I found satisfaction in the fact that the treaty had a special significance as regards foreign policy. By this treaty, in which the Reich clearly recognized Austrian independence, the German-Austrian differences, which were of danger to peace in Europe, were removed.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I submit the agreement between Germany and Austria of 11 July 1936 under Number 118 in Document Book 4, and I ask the Court to take judicial notice of it.

Herr Von Neurath, apart from clearing up the Austrian question in the years before 1937, you also carried on negotiations with eastern European states. In the affidavit of the American Consul General Mr. Messersmith, which the Prosecution has submitted as USA-68, 2385-PS, it is asserted that the purpose of these negotiations was to get these southeastern states to acquiesce in the destruction and splitting up of Czechoslovakia contemplated by Germany, and even to take an active part in it. For this purpose, in the course of these negotiations, you are even supposed to have promised

these states, or got others to promise them, that they would receive parts of Czechoslovakia and even Austrian territory as a reward. Will you please comment on this?

VON NEURATH: These assertions of Mr. Messersmith are pure invention and a figment of the imagination from beginning to end. There is not one word of truth in them. I can only describe this affidavit as fantastical. It is not even true that he was, as he says, a close friend of mine. I met Mr. Messersmith a few times at large gatherings, but I avoided discussing politics with him, because I knew that in his reports and other statements about talks which he had had with diplomats he repeated things in a way which did not always correspond to the truth. It is significant that incidentally this affidavit contains hardly any accurate indications of the sources he employed.

My negotiations with the southeastern countries, as well as my personal trips to their capitals, in reality had the sole purpose of strengthening the existing economic relations and promoting mutual trade and exchange of goods. In addition, I wanted to gain information about the political situation in the Balkans, which is always difficult to grasp.

DR. VON LÜDINGHAUSEN: In my Document Book 2, under Number 30, Page 87, I have a short excerpt from another affidavit of Mr. Messersmith, dated 29 August 1945. The Prosecution has already submitted it as Exhibit USA-750, Document Number 2386-PS, in another connection. I should like to quote one passage from this excerpt. It is on Page 87 of my Document Book 2, and reads:

> "During the years 1933 and 1934 the Nazi Government left the German Foreign Office for the most part in charge of conservative officials of the old school. Generally speaking, this situation continued throughout the period during which Baron Von Neurath was Foreign Minister. After Von Ribbentrop became chief of the Foreign Office, the situation gradually changed as regards the political officials. During Von Neurath's incumbency, the German Foreign Office had not been brought into line with Nazi ideology, and Von Neurath and his assistants can hardly be blamed for acts of German foreign policy during this period, though his continuation in office may appear to indicate his agreement with National Socialist aims. In defense of these activities Von Neurath might easily adduce reasons of patriotic motives."

Then, in regard to these trips and the policy of the defendant in the Southeast, I am submitting the three communiqués on Von Neurath's visit to Belgrade, Sofia, and Budapest in June 1937 under Numbers 122, 123, and 124 in my Document Book 4. I ask the Court to take judicial notice of them.

Herr Von Neurath, the Prosecution is using your speech of 29 August 1937, made in Stuttgart at a demonstration of Germans living abroad, to bring a charge against you, inasmuch as it sees in one of your remarks the aggressive intentions of your policy. It quotes the following words which you are alleged to have used in your speech:

> "The unity of the heroic national will created by National Socialism in its unparalleled *élan* has made possible a foreign policy by which the terms of the Versailles Dictate are exploded, freedom to arm is regained, and sovereignty is restored throughout the state. We are again masters in our own house, and we have created the power to remain so in the future. In our foreign political actions we have taken nothing from anyone. From the words and deeds of Hitler the world should see that he has no aggressive desires."

I should like to point out that these sentences can be understood only if taken with their context. I should like to ask the permission of the Court to state briefly what the context is. This excerpt from the speech is submitted by me in Document Book 4, Number 126. I quote:

> "We have again become masters in our own house. We have created the means to remain so. . . ."

THE PRESIDENT: You have just read that. You have read it once.

DR. VON LÜDINGHAUSEN: Yes. I should like to read the sentence in between.

THE PRESIDENT: You may read anything which is relevant and which was omitted, of course.

DR. VON LÜDINGHAUSEN: The quotation that I am submitting reads:

> "But this attitude of the new German Reich is in reality the strongest bulwark for safeguarding peace, and will always prove itself as such in a world in turmoil. Just because we have recognized the danger of certain destructive tendencies which are attempting to assert themselves in Europe, we are not looking for differences between countries and peoples, but are trying to find connecting links. We are not thinking of political isolation. We want political co-operation between governments, a co-operation which, if it is to be successful, cannot be based on theoretical ideas of collectivity, but on living reality, and which must devote itself to the concrete tasks of the present. We can state with satisfaction that in pursuing such a realistic peace policy, we are working hand in hand with our friend Italy.

This justifies the hope that we may also reach a friendly understanding with other governments regarding important questions of foreign policy."

Do you, Herr Von Neurath, wish to add any comment to this?

THE PRESIDENT: I think this is a convenient time to break off.

[A recess was taken.]

DR. VON LÜDINGHAUSEN: Herr Von Neurath, just before the recess I confronted you with a quotation from your speech of 29 August 1937 and I asked you whether you wished to make any statement.

VON NEURATH: I should think this statement shows exactly the opposite of what the Prosecution is trying to make out. The peaceful character of my speech could hardly have been brought out in a more convincing way.

DR. VON LÜDINGHAUSEN: As proof for their assertion that your whole policy could be summarized as the breaking of a treaty, the Prosecution adduces further from the following sentences in a speech made by you before the Academy for German Law on 30 October 1937, when you said; and I quote:

"Realizing these fundamental facts, the Reich Cabinet was always in favor of handling each concrete international problem by the methods which are appropriate, and was against merging it unnecessarily with other problems and thus complicating matters, and insofar as problems exist between two powers only, of choosing the way for an immediate understanding between these two powers. We are in a position to state that these methods have proved to be good ones, not only in the interests of Germany, but also in the general interests."

What is your comment on this?

VON NEURATH: First of all this quotation is torn completely from its context. The entire speech was a presentation of the reasons why I, representing Germany's policy, considered the conclusion of bilateral agreements to work better in the interests of peace than the so-called collective agreements, and only from this angle can the passage just quoted be understood. Therefore, I would ask that you quote the passage with its context.

DR. VON LÜDINGHAUSEN: This speech of Herr Von Neurath on the League of Nations and international law, which he delivered on 30 October 1937 before the Academy of German Law, will be

found under Number 128 of my Document Book 4. With the permission of the Tribunal I should like to quote this particular passage in its entirety and we shall see that the passage selected by the Prosecution has not the meaning which the Prosecution has given it. It says here:

> "I am convinced that the same or similar considerations will also arise in other cases where it is intended to set up a schematic structure, such as an absolutely mutual system of assistance for a more or less large group of states. Such projects, even in favorable cases, namely, when intended to be an equal guarantee by all participants, will only remain as a piece of paper . . ."

THE PRESIDENT: Is it not sufficient to refer to the document? The defendant has just said that the speech contained the reasons why he considered bilateral rather than general agreements possible. He said that. The document appears to confirm that. Could you not refer to the document without reading the words?

DR. VON LÜDINGHAUSEN: I read it because it was torn from its context and I believed that I would be permitted to quote the context as well. However, if the Tribunal wish to read the matter I shall not continue quoting it.

THE PRESIDENT: It does not seem to me to add to it. It is just the words which the defendant has quoted the substance of.

DR. VON LÜDINGHAUSEN: I omitted one sentence as I thought it was superfluous. But it may be seen from the context. If the Tribunal prefers to read the entire speech with reference to my quotations, then, of course, I shall be satisfied.

Herr Von Neurath, under Number L-150, USA-65, the Prosecution have submitted a note by Mr. Bullitt, who was American Ambassador in Paris at that time, regarding a discussion he had with you in May 1936, and the Prosecution adduced, on Page 8 of the English trial brief, that as Foreign Minister you participated in the planning of aggressive war against Austria and Czechoslovakia.

Will you please comment on this document which is known to you, and on this accusation which is leveled against you?

VON NEURATH: At first the occupation of the Rhineland had naturally created unrest in the cabinets and public opinion and among the signatory powers of the Treaty of Versailles. This applied especially to France and Czechoslovakia. Therefore it was natural, if a reasonable German foreign policy was to be conducted, to allow this unrest to die down, so as to convince the world that Germany was not pursuing aggressive plans, but only wanted to restore full sovereignty in the Reich. The erection of fortifications

was to serve only to decrease the temptation to our highly armed neighbors to march at any time they saw fit into German territory, lying there unprotected. Despite all the negotiations and efforts, it had not been possible to get them to observe the disarmament clause in the Treaty of Versailles.

As I have already said, France and Czechoslovakia especially, instead of disarming, continued to arm, and by concluding agreements with Soviet Russia increased their military superiority.

In my discussion with Mr. Bullitt I attempted to bring all this out when I said that we would not start any further diplomatic actions for the time being. By making any military attack more difficult I hoped to get France and Czechoslovakia to change their policy, which was hostile to Germany, and to create better relations with both these countries in the interests of peace. These hopes and views which I held can be seen clearly in the last part of Mr. Bullitt's report—and with this Mr. Bullitt was in full agreement.

As to the remark about British policy on Page 2, Paragraph 2 of this report, at that time Great Britain was trying to prevent a *rapprochement* between Germany and Italy, with whom her relations were strained to a breaking-point because of the Abyssinian question.

The Foreign Office thought the *rapprochement* could be prevented by making it known that it would no longer oppose the Anschluss between Germany and Austria. At that time Mussolini was still entirely opposed to the Anschluss. The realization of this specious intention on the part of Britain was one of the motives for the conclusion of the German-Austrian Agreement of 11 July 1936. The British statement which I had hinted at and expected was forthcoming in November 1937 on the occasion of the visit of Lord Halifax to Berlin. Lord Halifax told me at that time—and I took care to make a note of his statement, which I quote in English word for word:

> "People in England would never understand why they should go to war only because two German countries wish to unite."

But at the same time, the Foreign Office, in a directive to the British Minister in Vienna, the wording of which is now well known, called upon the Austrian Government to offer stubborn resistance to the Anschluss, and promised every support.

The Bullitt report also shows that I said that Hitler's greatest wish was a real understanding with France. Apart from that I also told Mr. Bullitt—and he himself states that right from the beginning—that the German Government would do everything to prevent an uprising of the National Socialists in Austria.

DR. VON LÜDINGHAUSEN: I ask the Tribunal to take special notice of these notes of Mr. Bullitt, so that we can save time by not quoting this paragraph. This is Document Book 1, Neurath Document Number 15, Page 60, last paragraph.

What was your own personal attitude and opinion about the policy to be pursued by Germany with reference to Czechoslovakia?

VON NEURATH: Czech policy towards us was always characterized by a profound mistrust. This was to be explained partly by the geographical position of the country between Germany and Austria, and partly by the diversity of nationalities within the country. These were swayed by strong feelings. The country's being drawn into the Franco-Russian military and friendship pact did not contribute to the establishment of closer relations between Germany and Czechoslovakia.

As Reich Foreign Minister I always worked to improve political relations. I also tried to strengthen our economic connections, which were of manifest importance. In so doing I no more thought of using force, or of military occupation, than I did in our relations with all the other neighboring states.

DR. VON LÜDINGHAUSEN: What was your attitude to the Sudeten-German question?

VON NEURATH: I have to be a little more explicit in this case.

The Germans living in the Sudetenland as a compact group had been given the assurance, at the peace negotiations in 1919 when they were attached to the Czechoslovak State, that they would be given autonomy on the model of the Swiss Confederation, as expressly stated by Mr. Lloyd George in the House of Commons in 1940. The Sudeten-German delegation at that time, as well as Austria, had demanded an Anschluss with the Reich.

The promise of autonomy was not kept by the Czech Government. Instead of autonomy, there was a vehement policy of "Czechification." The Germans were forbidden to use their own German language in the courts, as well as in their dealings with administrative authorities, *et cetera,* under threat of punishment.

THE PRESIDENT: Dr. Von Lüdinghausen, can not the defendant go on to the time with which we have to deal, namely, 1938, and tell us what his policy was then, without telling us all these facts beforehand about 1919?

DR. VON LÜDINGHAUSEN: I just wanted to show the background for his later policy. However, if the Tribunal thinks that this is unnecessary, because it is well known, then I shall be satisfied with the testimony which has already been given.

Herr Von Neurath, what were your official and personal relations with Hitler during your time as Foreign Minister?

VON NEURATH: From the personal point of view I had no close connection of any kind with Hitler. I did not belong to his close circle either. In the beginning I had frequent discussions with him concerning foreign policy and on the whole found him open to my arguments. However, in the course of time this changed when other organizations, especially the Party, began to concern themselves with foreign policy and came to Hitler with their plans and their ideas. This applied especially to the so-called Ribbentrop Bureau. Ribbentrop became more and more a personal adviser of Hitler in matters of foreign policy, and gained more and more influence. It was often difficult to dissuade Hitler from proposals which had been submitted to him through these channels. German foreign policy was to a certain extent going two different ways. Not only in Berlin but also in its offices abroad the Foreign Office had constantly to contend with difficulties caused by the working methods and the sources of information of this Ribbentrop Bureau. I personally was always opposed to the Party exercising any influence on foreign policy. I was especially opposed to Ribbentrop's direct handling of important questions and his official interference in matters of foreign policy in cases where they had not been removed from my control. For that reason I handed in my resignation several times, and for a time I succeeded in getting Hitler to dispense with Ribbentrop's meddlesome methods which he had hitherto supported.

DR. VON LÜDINGHAUSEN: In this connection I should like to submit, and have the Tribunal take judicial notice of, an extract from an article in the American periodical *Time* dated 10 April 1933, Number 9 of my Document Book 1, Page 44. I should also like to refer . . .

THE PRESIDENT: The Tribunal does not think that mere newspaper reports or comments are in the nature of evidence.

DR. VON LÜDINGHAUSEN: In addition, I have submitted in my Document Book 1, under Number 17, an extract from the well-known book by Henderson, the former British Ambassador in Berlin, *Failure of a Mission,* and I ask the Tribunal to take judicial notice of it so that I shall not have to read it, paying special attention to Paragraph 2, Page 69.

THE PRESIDENT: The Tribunal rules that this document—the article from *Time*—may be admitted, but it is not necessary to refer to it.

DR. VON LÜDINGHAUSEN: Thank you. This is Document Number 9, Mr. President.

THE PRESIDENT: Yes, I know it is Document Number 9. I say it may be admitted.

DR. VON LÜDINGHAUSEN: Thank you.

Finally, I should like to submit and call the attention of the Tribunal to Document Number 16 which is a communication addressed by Defendant Von Neurath to Hitler, dated 27 July 1936, requesting to be relieved of his post because of the intended appointment of Herr Von Ribbentrop as State Secretary. It is not necessary to read this document, but I should like to call the Tribunal's attention not only to the contents, but also to the mode of address and the ending. Hitler is addressed only as "Esteemed Reich Chancellor," and the ending is "Yours very respectfully."

I mention this because the Prosecution has often made the accusation that flowery phrases were used in addressing letters to Hitler which exceeded ordinary courtesy. Herr Von Neurath has never done so.

I also call your attention to Document 14, which will be found in my Document Book 1. That is also an offer to resign, dated 25 October 1935, and I ask the Tribunal to take judicial notice of this document as well.

Herr Von Neurath, apart from your official policy, were there not other offices which took independent action, which signed treaties, in which you had no part?

VON NEURATH: Yes. That was the case, for instance, in the so-called Berlin-Rome-Tokyo policy. Hitler pursued this plan stubbornly, and Ribbentrop supported him in this. I rejected this policy, as I considered it detrimental and in some ways fantastic, and I refused to allow my staff to carry this through. Ribbentrop therefore, in his capacity as Ambassador with a special mission, carried on these negotiations independently, and on Hitler's instructions concluded the so-called Anti-Comintern Pact. Hence this pact bore Ribbentrop's signature and not my own, even though I was still Foreign Minister at that time and in the ordinary way would have had to sign the pact.

DR. VON LÜDINGHAUSEN: We now come to the change in policy. Herr Von Neurath, when did you realize that Hitler's foreign policy plans, above all the achieving of equal rights for Germany, went beyond peaceful means, and that the waging of wars and the use of violence began to be considered as a possibility?

VON NEURATH: I realized it for the first time when I heard Hitler's speech to the Commanders-in-Chief of the Armed Forces on 5 November 1937, which has been mentioned here frequently, and at which I was present. It is true that the notes on the contents of this speech, as we have seen from the Hossbach minutes, were made

from memory 5 days later as an excerpt from a speech which lasted 2 or 3 hours.

Although the plans set forth by Hitler in that long speech had no concrete form, and various possibilities were envisaged, it was quite obvious to me that the whole tendency of his plans was of an aggressive nature. I was extremely upset at Hitler's speech, because it knocked the bottom out of the whole foreign policy which I had consistently pursued—the policy of employing only peaceful means. It was evident that I could not assume responsibility for such a policy.

DR. VON LÜDINGHAUSEN: In connection with this I should like to refer to the affidavit of Baroness Ritter already mentioned by me as Number 3 in Document Book 1. From this affidavit I should like to quote a paragraph under Figure 17 of my document book, a paragraph which seems to me to be so important that I should like to ask the Tribunal to grant me permission to quote this paragraph. I quote:

> "When for the first time Herr Von Neurath recognized from Hitler's statement on 5 November 1937 that the latter wanted to achieve his political aims by the use of force toward the neighboring states, he was so severely shaken that he suffered several heart attacks.
>
> "He discussed this with us in detail on the occasion of his visit on New Year's Day 1938, and we saw that this had affected him both physically and spiritually. Above all, he was very upset because meanwhile Hitler had refused to receive him and in these circumstances he could not see how Hitler was to be dissuaded from his plans, which he severely condemned. He often said 'It is horrible to play the part of Cassandra.' He categorically declared that on no account could he support this policy, and that he would face the issue. He did not falter in this decision when on 2 February 1938, on the occasion of his sixty-fifth birthday, Hitler told him that he could not do without him as Foreign Minister. He told us about this the same evening in a telephone conversation when we sent him birthday greetings."

What did you do when this speech forced you to realize these things?

VON NEURATH: About 2 days after this speech I went to see General Von Fritsch, who had also been present on the occasion of this speech; and together with him and the Chief of the General Staff, Beck, I discussed what could be done to get Hitler to change his ideas. We agreed that first of all General Von Fritsch, who was due to report to Hitler during the next few days, should explain to

him all the military considerations which made this policy inadvisable. Then I intended to explain the political reasons to him.

Unfortunately Hitler left for the Obersalzberg soon afterward and could not or did not wish to receive me before his departure. I could not see Hitler until 14 or 15 January. On that occasion I tried to show him that his policy would lead to a world war, and that I would have no part in it. Many of his plans could be realized by peaceful means, even if the process was slower. He answered that he could not wait any longer. I called his attention to the danger of war and to the serious warnings of the generals. I reminded him of his speech to the Reichstag in 1933 in which he himself had declared every new war to be sheer madness, and so forth. When despite all my arguments he still held to his opinions, I told him that he would have to find another Foreign Minister, and that I would not be an accessory to such a policy. At first Hitler refused to accept my resignation, but I insisted, and on 4 February he granted my release without further comment.

DR. VON LÜDINGHAUSEN: Did you have the impression, Herr Von Neurath, that Hitler decided to grant your release with reluctance, or that by your request to be allowed to resign you met his wishes halfway?

VON NEURATH: I believe the latter was the case. I believe Hitler had been wanting this for some time . . .

THE PRESIDENT: That is not evidence. You cannot say what you think another man thought.

DR. VON LÜDINGHAUSEN: Then, simultaneously with your resignation as Foreign Minister, you were made president of the newly instituted Secret Cabinet Council. What did that appointment mean?

VON NEURATH: As the witness Göring has already stated here, the Secret Cabinet Council was set up for the sole purpose of masking the reorientation in foreign policy and the changes on the military side. Several witnesses have testified to the fact that the Secret Cabinet Council never convened. I might add that in actual practice it would not have been able to function, for after my resignation on 4 February I was cut off from all access to news concerning foreign policy.

DR. VON LÜDINGHAUSEN: Now, after your resignation as Foreign Minister you kept your title as Reich Minister. But were you still a member of the Reich Cabinet or not?

VON NEURATH: No. Apart from the fact that as far as I know the Reich Cabinet no longer functioned, because there were no longer any sessions of the Reich Cabinet, the title "Reich Minister"

was just a title of form, which was not connected with any activity or with any Government department. Unlike the members of the Reich Government, I did not receive any legislative bills for signature.

DR. VON LÜDINGHAUSEN: The Prosecution states that in March of 1938 you represented Ribbentrop as Foreign Minister during his absence and they adduce this from an entry in the diary of General Jodl which says, "Neurath in the meantime is taking over the Foreign Office." Will you please comment on this?

VON NEURATH: After my resignation on 4 February I was quite out of touch with my former colleagues and I withdrew completely. However, I still remained in Berlin. On 11 March 1938, late in the afternoon, Hitler suddenly rang me up in my apartment and asked me to come and see him. In the anteroom I met, besides Herr Von Papen, General Von Brauchitsch and a number of other high officials and officers of his immediate entourage. Göring was also in the room with Hitler when I came in. Hitler told me that the Anschluss with Austria was a fact, and that German troops would cross the border during the night of the 11th and 12th. When I raised the question whether that had to be, Hitler told me the reason why he did not wish to wait any longer. He asked me what the Foreign Office should do, as the Foreign Minister was absent and in London at the time. I told him quite clearly that we would probably receive protests to which a reply would have to be sent. Apart from that we on our part should make a statement to the powers. There should be no formal negotiations. I also told him that the Foreign Minister should be immediately recalled from London. Göring opposed this. Finally Hitler asked me to tell the State Secretary of the Foreign Office what he had just told me, so that the Foreign Office would know what was happening.

On 12 March, in the morning, I did as Hitler had instructed me, and passed on his description of events to the State Secretary, who was the official representative of Ribbentrop. Göring was appointed by Hitler to be his deputy during the time he was absent. On 12 March I personally told the former about the letter addressed to me by the British Ambassador containing the British protest against the occupation of Austria. I told him that the Foreign Office would submit a note of reply.

When the draft of this note had been prepared I told Göring about the contents of the note over the telephone. Göring as Hitler's deputy asked me to sign the reply in his stead, since the British Ambassador's letter had been addressed to me. Göring has already stated this as a witness here in this courtroom; hence the phrase in this letter which says "in the name of the Reich Government."

I repeatedly asked Göring to have Ribbentrop recalled from London and to keep him informed. From the telephone conversation between Göring and Ribbentrop, which has already been mentioned here, it appears that Göring did this. The explanation why the British note was addressed to me I learned only here through the testimony of Göring, when he said that on the evening of the 11th he himself had told the British Ambassador that he, Göring, was representing Hitler during his absence and that Hitler had asked me to advise him, if need be, on matters of foreign policy.

The entry in Jodl's diary, about which I heard only here in this Court, and which, strangely enough, is dated 10 March—a time when I had not even put in an appearance—can probably be attributed to the fact that somebody had seen me on 11 March in the Reich Chancellery. In any case, I was not active in any other way as Ribbentrop's deputy.

DR. VON LÜDINGHAUSEN: Also you did not use stationery with the heading "Foreign Office," or the signature of the Foreign Office.

VON NEURATH: The fact that I used stationery with the heading "President of the Secret Cabinet Council," which I found in a room of the Chancellery, and which was the only indication that this legendary institution actually existed, also proves that I did not represent the Foreign Office or the Foreign Minister, otherwise I would have used Foreign Office stationery.

DR. VON LÜDINGHAUSEN: You answered the note of the British Ambassador on 12 March by the letter just described. The Prosecution reproaches you, asserting that the reasons given by you in this letter and the description of events in Austria which preceded the entry into the country, are not correct. As I assume the Tribunal is familiar with the passages which form the subject of this accusation, I think it is not necessary to quote them. You also know these passages and I should like to have your opinion.

VON NEURATH: The accusation that the contents of this reply are partly incorrect is quite true. This is explained by the fact that I had no other information except Hitler's communications and the note is based on these communications. This is the information which I had transmitted to the Foreign Office, which was completely ignorant of the events. That was the basis of the draft.

I should like to add that the incidents which led to the Austrian Anschluss were never planned during my period of office, and nothing of the kind was ever mentioned. Hitler never had any definite foreign policy plans at all, rather did he take decisions very suddenly and immediately translated them into action, so that even his closest associate had knowledge of them only a few days

in advance. The expression "Austrian Anschluss," as it is used here and generally, does not express that which actually happened later, which was in fact the incorporation of Austria. It is this incorporation of Austria that we are now concerned with. This incorporation of Austria was conceived by Hitler at the very last moment, in Linz, as the troops were marching in. A further proof that the plan for invasion had not been made in advance is the fact that Hitler a few days earlier had sent his Foreign Minister to London to clear up some diplomatic formalities.

DR. VON LÜDINGHAUSEN: In this connection, I should like to refer to an excerpt from the book by Sir Nevile Henderson, *Failure of a Mission,* which has already been mentioned. This excerpt is Number 129 in my Document Book 4. I ask the Tribunal to take judicial notice of this document.

During the Austrian crisis, on 12 March, the day after the marching-in, you made a statement to the Czechoslovakian Minister in Berlin regarding the measures taken in respect to Austria, and their effects on Czechoslovakia. According to a report made by Dr. Mastny, the Czechoslovakian Minister in Berlin, about this discussion, you declared that the German Government did not intend to take any steps against Czechoslovakia, but to uphold the arbitration treaty concluded in the twenties with Czechoslovakia. Will you please comment on this report, which is known to you and which is to be found under Number 141 in my Document Book 5.

VON NEURATH: It is quite correct that on 12 March I made the said statement to M. Mastny. Only the reason for the conversation and its gist were somewhat different from the way he has described it. On 12 March Ministerial Director Von Weizsäcker telephoned me at my home, telling me that the Czechoslovakian Minister Mastny was with him and wanted to know whether he could see me sometime during the course of the day. I asked M. Mastny to come to my apartment during the afternoon. M. Mastny asked me whether I believed that Hitler, after the Austrian Anschluss, would now undertake something against Czechoslovakia as well. I replied that he could set his mind at rest, that Hitler had told me on the previous evening, in reply to my suggestion that the Austrian Anschluss might create unrest in Czechoslovakia, that he had no thoughts of undertaking anything against Czechoslovakia. Mastny then asked me whether Germany still considered herself bound by the agreement concluded in 1925. On the strength of the answer given to me by Hitler I was able to confirm this with a clear conscience. Hitler had added in this connection that he believed the relations with Czechoslovakia would even improve considerably. The settlement of the Austrian Anschluss was after all a domestic affair.

M. Mastny's report states that I spoke on Hitler's instructions. However, that is not true. I merely referred to my discussion with Hitler which was fresh in my mind. When M. Mastny in this report stresses the fact that I spoke as the president of the Secret Cabinet Council, he may have been using a manner of speech in order to give more weight to his report.

DR. VON LÜDINGHAUSEN: The Prosecution alleges a certain divergence between the statement made by you and the plans as expounded by Hitler in November 1937 and accuses you, asserting that you knew very well what these plans were, of being somewhat credulous when you made that reassuring statement to Mastny.

VON NEURATH: In this discussion Hitler talked about war plans only in a general way. There was no talk about an aggressive plan against Czechoslovakia. Hitler said that if events led to a war, Czechoslovakia and Austria would have to be occupied first so that our right flank be kept free. The form of this or any other attack on Czechoslovakia, and whether there would be any conflict at all in the East, was doubtful and open to discussion.

In effect, the Sudetenland, which strategically held the key position of the Czech defense, was subsequently ceded in a peaceful manner by agreement with the Western Powers. Concrete plans for a war against Czechoslovakia, as General Jodl has testified, were not given to the General Staff for elaboration until the end of May 1938. I learned for the first time here about the existence of these plans. For the rest, when Hitler told me that he would undertake nothing against Czechoslovakia, I could not but believe that this was his real intention; in other words, that he had relinquished his plans for alternative action as set forth on 5 November 1937.

That is all I can say about the Czechoslovakian question.

THE PRESIDENT: Shall we break off?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. VON LÜDINGHAUSEN: Herr Von Neurath, in the Indictment there is mention of a conference of 28 May 1938 at which Hitler, Von Ribbentrop, Göring, and the Commanders-in-Chief of the Armed Forces branches were present, at which it is asserted in the affidavit of Herr Wiedemann that you also attended.

VON NEURATH: I cannot at all remember any such conference, nor the statement of Hitler which was mentioned by Wiedemann. Moreover, Keitel, Ribbentrop, Göring, and Raeder knew nothing of this conference. Perhaps it is a mistake or it is being confused with the conference mentioned by Schmundt of 22 or 28 April 1938, but I was not present at this conference; I was not in Berlin at all.

DR. VON LÜDINGHAUSEN: After your resignation, you had withdrawn completely to private life. In the Sudeten crisis, in the autumn of 1938, did you take an active part and advocate a peaceful policy?

VON NEURATH: Yes. After my dismissal in February 1938 I lived on my estate. On about 26 September I received a telephone call from one of my former ministerial colleagues informing me that Hitler had instructed the Armed Forces to be ready to march by 28 September. Apparently he wanted to solve the Sudeten question by force. I was asked to come to Berlin immediately and attempt to dissuade Hitler from this intention.

During the night I went to Berlin. After my arrival I inquired at the Foreign Office about the situation and reported to Hitler that I was there. I was sent away. Nevertheless, on the 28th I went to the Reich Chancellery and there I met Hitler's entire entourage ready to march. I inquired for Hitler and was told that he was in his room, but would receive no one. Nevertheless, I went to the door and entered Hitler's room. When he saw me he asked, in a harsh voice: "What do you want here?" I answered that I wanted to point out to him the consequences of his intended step. I explained to him that he would bring on a European war, and probably a world war, if he were to march into Czechoslovakia while negotiations were still in progress on the Sudeten problem; that Czechoslovakia would doubtless resist and that it would not be an easy struggle, and in any case it would involve France and England and Poland. I told him that it would be a crime he could never answer for to shed so much blood unless all possibilities of peaceful settlement had been exhausted. I knew that Mr. Chamberlain was prepared to come to an agreement and that he was also prepared to induce the Czechs to turn over the Sudetenland if that could prevent war.

THE PRESIDENT: How did you know that Mr. Chamberlain would be willing to come?

VON NEURATH: Because I had met the British Ambassador on the street.

THE PRESIDENT: Go on.

VON NEURATH: Hitler refused to consider such a conference. During our talk, however, Göring had appeared and he supported me in my efforts to persuade Hitler to have a conference. Finally Hitler agreed, if I could bring Chamberlain, Daladier, and Mussolini to Berlin by the next day. Since that was impossible for Mussolini, I suggested Munich as the place for negotiations. I immediately established contact with the British and French Ambassadors, who were both on their way to see Hitler. Hitler himself telephoned directly to Mussolini, and by 6 o'clock the promises and answers had been received.

DR. VON LÜDINGHAUSEN: I should like to ask the Court to take judicial notice of Document Number 20 in my Document Book 1, Page 72b, an excerpt from the book by Ambassador Henderson, *Failure of a Mission.*

[Turning to the defendant.] Did you personally take part in the Munich Conference which then took place?

VON NEURATH: Yes. In view of Hitler's irritated frame of mind, I was concerned about the course of the conference and I told him that I considered it expedient that I should go to Munich too, since I knew the foreign representatives personally and for that reason could serve as mediator. When he agreed, Göring invited me to come along in his special train. Later, in the course of the long session, I frequently talked to the three persons and to Hitler and tried to mediate in the differences which arose.

Mr. Chamberlain, at the end of this discussion, asked me to arrange a talk with the Führer alone, without Ribbentrop, on the next day, since he would like to make a new suggestion. The Führer did not want to at first, but finally I persuaded him. At this talk, a "consultation agreement" was reached between England and Germany, which France later joined. Chamberlain, who was staying at the same hotel as I was, showed me this agreement with great joy after the talk, and I also was glad to see it. I hoped that Anglo-German relations, which had suffered in the Godesberg and Berchtesgaden meetings, might be brought back to normal by this agreement and that the way would be opened for further conferences. As in the summer of 1937, Chamberlain invited me to visit him in England. I immediately told him that I did not believe that Hitler, who had forbidden me to go to England in the summer of 1937, would now give his approval, especially since I was no longer Foreign Minister.

In January 1938 the British Ambassador repeated the invitation, but I had to tell him that I had had no opportunity of obtaining Hitler's approval.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should like to submit Document 21 in my document book. It is a letter of the French Ambassador at that time, François-Poncet, dated 18 October 1938, a few weeks after the Munich Conference. I should like to quote only two sentences from it.

> "But of the two of us it is I who have contracted the greater debt of gratitude. I have always had from you, even at the most delicate moments, the most kind, the most considerate and the most confident reception. You made a difficult task easy for me. I shall never forget what I owe you."

Mr. President, at this point I should like to submit a letter from the Ambassador Poncet, which was received only a few days ago and which I mentioned with the same request at the beginning of my case. I asked that the French Ambassador be called as a witness, and in answer to this a letter from the Ambassador of 7 June was addressed to the French Prosecution, of which I received a copy through the General Secretary's office last week—I believe Thursday or Friday.

In spite of the fact that this letter is not in the prescribed form of an affidavit but is a private letter to the Prosecution, I would ask that you accept it as if it were in the form of an affidavit. The original of this letter is in the possession of the French Prosecution, and the French Prosecution has promised to submit the original on the request of the Court. I take the liberty to submit the certified copy.

THE PRESIDENT: The original document should be presented to the Court now, or as soon as it conveniently can be.

DR. VON LÜDINGHAUSEN: The day before yesterday I talked to a member of the French Prosecution who said they did not have it here at the moment. I do not know where they have it. Therefore, I ask that it be submitted; otherwise I would already have submitted it.

THE PRESIDENT: Very well, but it must be submitted as soon as possible.

DR. VON LÜDINGHAUSEN: Yes.

THE PRESIDENT: You wish to offer it in evidence, do you?

DR. VON LÜDINGHAUSEN: Yes.

THE PRESIDENT: What number is it?

DR. VON LÜDINGHAUSEN: 162.

THE PRESIDENT: There is no objection, I take it?

SIR DAVID MAXWELL-FYFE: No objection, My Lord.

DR. VON LÜDINGHAUSEN: This letter reads, if I may quote at least one brief passage:

> "He"—that is Herr Von Neurath—"never aggravated the incidents; on the contrary, he always sought a personal and peaceful solution. He made every effort to facilitate the task of the foreign diplomats in the German capital. They, like myself, were grateful to him. I do not doubt that he often pointed out to Hitler the dangers to which he was exposing Germany by the excesses of his regime, and that he let him hear the voice of prudence and moderation."

Now I come to another subject, and I should like to present the following:

The documents presented by the Prosecution show that during your period in office as Reich Foreign Minister, a representative of the Foreign Office took part in sessions of the Reich Defense Council, and by the Reich Defense Law of 1938, you, as president of the Secret Cabinet, were a member of this Reich Defense Council.

Will you comment on this?

VON NEURATH: Neither as Reich Foreign Minister nor as president of the Secret Cabinet did I have anything to do with the affairs of the Reich Defense Council. I never took part in any session or talk. As has been stated here, all ministries from the time before 1933 had so-called Reich defense experts who were to deal with interministerial questions resulting from possible mobilization in case of a defensive war. As Dr. Schacht has already testified, the Reich Defense Council of 1935 was nothing but the legalization of a committee which had existed before 1933.

DR. VON LÜDINGHAUSEN: In the existence of such a committee or council for the defense of the Reich, did you see signs of preparation for a war of aggression?

VON NEURATH: No, in no way. The designation already indicates that it had to do with preparations for the defense of the Reich against attack, and not preparations for attack. Moreover, I know that in France, as well as in England, such arrangements had existed for a long time.

DR. VON LÜDINGHAUSEN: Mr. President, I should like to submit Document 78, which is on Page 213 of my Document Book 3. It is an excerpt from a statement made by the French War Minister, Pétain, on 6 June 1934 before the Army Commission of the French Chamber, which mentions the necessity of a defense council or committee.

THE PRESIDENT: Just wait a minute. The Tribunal doesn't think that any evidence that other countries had other organizations is really relevant to this case.

DR. VON LÜDINGHAUSEN: The Prosecution asserts that Hitler awarded you more honors than some of the Nazi leaders themselves, and concludes that you were especially close to Hitler. Will you please comment on this.

VON NEURATH: That is a rather remarkable assumption. It was clear that, being the oldest minister who had served the State for over 40 years, Hitler could not overlook me in awarding honors and honorary titles, but they were limited to what is customary for incumbents of high State positions.

DR. VON LÜDINGHAUSEN: I should like to name the individual awards on which a charge is made against you. You held the Order of the German Eagle and the War Merit Cross First Class.

VON NEURATH: Yes. The Order of the German Eagle was founded in 1937 and was to be awarded only to foreigners. It would however have had no great value abroad but would have been considered more a type of special order, such as a colonial order, if no German had held it. For that reason in my capacity as Foreign Minister, immediately when the order was founded, Hitler awarded me the Grand Cross of the order and thus also heightened the value of this order . . .

THE PRESIDENT: Dr. Von Lüdinghausen, is it not sufficient for the defendant to have said that it was usual to give these titles? It is not necessary for us to investigate the particular merits of the particular order, is it? It seems to me to be very remote.

DR. VON LÜDINGHAUSEN: Mr. President, I mentioned it only because the Prosecution also brought it out especially.

The further charge is made by the Prosecution that on 30 January 1937, in that well-known Cabinet meeting, you received the golden Party insignia from Hitler and thus became a member of the Nazi Party. What about that?

VON NEURATH: As to the way in which this was awarded, Herr Schacht as well as Raeder have testified here. I was not a member of any party. Between 1933 and 1937 I had several times been requested to join the Party but had refused. My attitude toward the Party was generally known. For that reason I was repeatedly attacked by the Party. I believe that the reason why I—why this insignia was awarded on 30 January 1937 to various members of the Cabinet, and also to generals who were not allowed to become members of the Party at all, I believe that has been described in enough detail and that I need not go into it again.

DR. VON LÜDINGHAUSEN: Then, surprisingly, Hitler also made you an honorary Obergruppenführer of the SS.

VON NEURATH: Yes, that was a complete surprise to me. In September 1937 Mussolini had announced his visit to Germany. For some days just before this visit I was not in Berlin. When I returned in the morning I found my tailor at the entrance of my house with the uniform of an SS Gruppenführer. I asked him what that meant. He told me the Reich Chancellery had instructed him to make me a uniform immediately. I then went to Hitler and asked him why he had done this. He said he wanted all the people who were to be present at the reception of Mussolini to be in uniform. I told him that was not very agreeable to me and I had to explain that in no case would I be subordinate to Himmler and I did not want to have anything to do with the SS. Hitler assured me solemnly that this would not be asked of me and that I need have no obligation to the SS; and this actually did not happen. Moreover, I had no power to issue orders, and my later appointment as Obergruppenführer was apparently done in the course of general promotions without any special emphasis.

DR. VON LÜDINGHAUSEN: Did you wear this uniform at all?

VON NEURATH: Only twice as far as I can recall; at the reception of Mussolini and then when in 1938 I was sent to Ankara for the funeral of Kemal Pasha. On official occasions I always wore the uniform of a civil servant without any insignia, which had been designed in the meantime.

DR. VON LÜDINGHAUSEN: On your seventieth birthday, on 2 February 1943, you received congratulations and other expressions of appreciation of your person and your activities from various sources. You were congratulated, among others, by Hitler and you received, besides, a check for 250,000 marks. Will you please tell us what was the significance of this donation, if one may call it that.

VON NEURATH: The American prosecutor recently mentioned this gift. Only he forgot to add that I refused it. The events were as follows:

On the day of my seventieth birthday, in the morning, an envoy of Hitler called on me and brought me a congratulatory letter from Hitler and an oil painting by a young German painter, showing an Italian landscape. The letter contained a check for 250,000 marks. I was painfully surprised and immediately told the envoy that I considered this so-called donation an insult, that I was not a lackey whom one paid with a tip, and that he should take the check back with him. He said he was not authorized to do so. The next morning I went to the Reich Finance Minister to give him the check

for the Reich treasury. He said that for formal reasons—I believe because the check was on a special account of Hitler's—he could not accept it. At his advice I turned the check over to the Reich Credit Association to a special account and informed the competent finance office in writing. I never touched one penny of this sum. The painting, the value of which was not especially great, I did not refuse, because it was entirely within the limits of a normal birthday gift and sending it back would have been considered a deliberate insult.

DR. VON LÜDINGHAUSEN: Mr. President, I ask permission in this connection, to submit two letters of the Reich Credit Association, which I received from them on Saturday upon my request. They contain confirmation that this sum of 250,000 marks in its full extent, plus the interest which has accumulated, is still today in a special account with the Reich Credit Association. This is proof that Herr Von Neurath did not, in fact, withdraw a penny of this so-called donation, or use it in any other way.

THE PRESIDENT: Will you give us the number of it?

DR. VON LÜDINGHAUSEN: 160 and 161. Mr. President, in my haste I have only been able to have the English translation made in my office. The French and Russian translations will be given to the French and the Russian Prosecution in the next few days. As I have said, I received it myself only on Saturday afternoon.

The further charge is made against you that in the conservative circles of Germany you worked as a sort of member of a Fifth Column to induce them to reconcile themselves with and agree to the National Socialist regime, because the fact that you remained in the Government would be considered an example by them. What have you to say about that?

VON NEURATH: That statement is nonsense, because it was known throughout Germany and abroad that I was no National Socialist, but rather that I combated National Socialist excesses against the Church and the Jews and that, in addition, I obstructed any policy which endangered peace. This was clearly shown by my dismissal in February 1938, and the fact that the general consternation about this was not publicly expressed in the German press was simply because there was no press available for this. It is therefore completely absurd that these conservative circles could have assumed that I was with all my heart with the Nazis, as the Indictment says. Other countries knew this just as well and saw in me an obstacle to Nazi policy. That I was not regarded as a blind adherent to Nazi theories, as is stated in the Indictment, is best known to the foreign diplomats in Berlin, since they could observe my constant struggle against the Party from close at hand.

DR. VON LÜDINGHAUSEN: I should like to submit in this connection an excerpt from the magazine *Archiv,* of 1937, and an excerpt from an article in the *Pester Lloyd,* containing the speech which the *doyen* of the Berlin Diplomatic Corps made in the name of the whole Diplomatic Corps to Herr Von Neurath on his sixty-fifth birthday on 2 February 1938. Both documents are contained in my Document Book 4, Number 127, and in Document Book 1, Number 18.

With this I have finished the part dealing with foreign politics, and the personal points in the charge against Herr Von Neurath. Now I come to the second aspect of the charge, your activity as Reich Protector for Bohemia and Moravia.

After the settlement of the Sudeten crisis you had withdrawn completely from political life; is that true?

VON NEURATH: Yes. I was very rarely in Berlin. For the most part I was on my estate in Württemberg or in the mountains.

DR. VON LÜDINGHAUSEN: In September 1939, were you in Berlin, and did you have any knowledge of Hitler's plans for an invasion of Czechoslovakia?

VON NEURATH: You mean in the late winter of 1939?

DR. VON LÜDINGHAUSEN: In the late winter, yes.

VON NEURATH: No, I had kept aloof. The differences between Germany, Czechoslovakia . . .

THE PRESIDENT: September 1939?

DR. VON LÜDINGHAUSEN: That was my mistake. I meant in the late winter.

THE PRESIDENT: Of 1938, you mean?

DR. VON LÜDINGHAUSEN: 1939.

VON NEURATH: 1938-1939.

The differences between us and Czechoslovakia on the treatment of the Sudeten Germans by the Czechs had been solved by the separation of the Sudetenland. The way to friendly co-operation was paved. One of the focal points of danger for the peace of Europe had been eliminated.

DR. VON LÜDINGHAUSEN: Then there came the famous dispute between Hitler and the President of the Czechoslovakian Republic, Hacha, in the night of 14 to 15 March 1939 in Berlin. This conference has already been discussed here. I do not believe I need go into it in much detail. Anyhow you know of it.

I should like to ask you, did you know of these events as described, particularly as given in Document Number 2798-PS?

VON NEURATH: No, I did not know of them. I learned of them only much later. I only learned here of the notes of Herr Hewel,

but after I learned of these events I disapproved strongly, and I would not have taken office as Reich Protector under any circumstances if I had known of these things at the time. I was completely surprised by the events in March 1939. I no longer received any foreign political information, as I have already said. I was dependent upon the radio and the newspapers. The preparation for attack on Czechoslovakia in 1938 I considered to have been eliminated after the Munich Agreement.

I learned of Hacha's visit to Berlin, like every other German, by radio and newspapers the next morning. The official statement of the taking-over of protection of the remainder of Czechoslovakia seemed not improbable to me after Slovakia had become independent, and after I learned that the Czech Foreign Minister, Chvalkovsky, in the course of the winter 1938-39 had said in Berlin that Czechoslovakia's former policy must be completely changed and that closer connections would have to be sought with Germany. However, I was concerned about how the signatory powers of Munich would react to this development, which was in contravention of the agreement which had been reached in Munich. My first question to Hitler, when I went to Vienna at his request, was whether England and France had been informed beforehand and had given their approval. When he said no, that that was quite unnecessary, and that the Czech Government itself had asked us to take over the protection, I immediately realized how dangerous the situation was, and said so to Hitler.

However, at the time I still believed that it had, in fact, been a free decision of the Czech Government. Hitler's request that I should take the post of Reich Protector was a complete surprise to me, the more so since I had discovered that he had very much taken amiss my spontaneous intervention in September 1938, which led to the Munich conference. I had misgivings about taking the office, which I also expressed to Hitler. I realized that an invasion of Czechoslovakia would, at the very least, strongly offend the signatory powers of the Munich Agreement, even if Hacha had asked for protection of his own accord, and it was also clear to me that any aggravation of the situation through bad treatment of the Czechs would bring about an immediate danger of war. The patience of England and France must surely be exhausted. I mentioned this to Hitler, too. Hitler's answer was that that was precisely the reason why he was asking me to take over the post—to show that he did not wish to carry on a policy hostile to Czechoslovakia. I was generally known abroad as a peaceful and moderate man, and he would give me the most extensive powers to oppose all excesses, especially by the Sudeten German element. When I still hesitated and said that I did not know conditions in Czechoslovakia and that

I was not an administrator, Hitler said that I should try it, that it could be changed at any time. He gave me two experienced men who knew the conditions. I did not realize at the time that the fact that the Police and the SS were not subordinate to any higher authority, already a practice then, would make it impossible for me to prevent the rule by force of Himmler and his agencies.

But I cannot refrain from pointing out that great responsibility for further developments lies with the other powers, especially the signatory powers of Munich. Instead of making protest on paper, I had expected that they would at least recall their ambassadors. Then, perhaps, the tension might have increased for the moment, but the German people would have realized how serious the situation was, and Hitler would have avoided taking further aggressive steps and the war could have been prevented.

DR. VON LÜDINGHAUSEN: The charge is made that you took this office so that by misuse of your humane and diplomatic reputation the impression could be given to the world that the Czechs were to be treated moderately, while the contrary was to be the case. Will you comment briefly on this point?

VON NEURATH: That is absolutely wrong. Hitler said that I was to attempt to reconcile the Czechs to the new conditions and to keep from excesses the German population which was filled with hatred by the years of struggle over nationality and measures of suppression.

DR. VON LÜDINGHAUSEN: What assurances did Hitler give you with regard to your office?

VON NEURATH: He assured me that he would support me in every way and at all times in my work of settling the national conflicts justly and winning over the Czechs by a conciliatory and moderate policy. In particular, he would protect my administration from all attacks by political radicals, above all by the SS and Police and Sudeten Germans; I had pointed out this danger particularly.

DR. VON LÜDINGHAUSEN: Were you convinced at that time that, in making these assurances of humane treatment for the Czechs, Hitler was serious and honest?

VON NEURATH: Yes, I definitely had that impression.

DR. VON LÜDINGHAUSEN: Then you believed that he would abide by the assurances he gave you?

VON NEURATH: Yes.

DR. VON LÜDINGHAUSEN: At that time did you know of any plans or even intention with regard to forcible Germanization of the Czechs?

VON NEURATH: No, that was completely unknown to me. I would have considered that such nonsense that I would not have believed that anyone could have such an idea.

DR. VON LÜDINGHAUSEN: Do you still believe that Hitler's assurances and expressed intentions at that time were meant honestly, and that they were only made illusory through further developments?

VON NEURATH: Yes, they were certainly meant honestly at that time.

DR. VON LÜDINGHAUSEN: In this connection I should like to refer to a document in my Document Book 5, under Number 142, which contains an excerpt from Henderson's *Failure of a Mission.* I should like to ask the Court to take judicial notice of that.

[Turning to the defendant.] In connection with that period, the conclusion of the German-Slovakian Treaty of March 1939 concerning the independence of Slovakia is charged against you by the Prosecution.

Did you have anything at all to do with drawing up this treaty or with declaring Slovakia autonomous?

VON NEURATH: No. I learned of the declaration of autonomy for Slovakia and of all these events only after they had been made public.

DR. VON LÜDINGHAUSEN: What were the principles of your program for your administration in Prague?

VON NEURATH: It was quite clear to me that reconciliation of the Czech people with the newly created conditions could be brought about only gradually, by sparing their national feelings as far as possible, and without radical measures. Under more favorable circumstances that would have taken several generations. I therefore attempted a gradual adjustment and a diminishing of the previously hostile policies.

DR. VON LÜDINGHAUSEN: In this connection I should like to refer to Document 143 in my Document Book 5. This is a reproduction of an article which Herr Von Neurath published about the aims of his administration in Prague in the *Europäische Revue* at the end of March 1939. I ask the Court to take judicial notice of this.

This article shows quite clearly with what intentions and with what tendencies Herr Von Neurath took up his office at that time. I ask the Tribunal to take judicial notice of it.

What were the conditions which you found in Prague when you took over your office in April?

VON NEURATH: The Czechs were generally disillusioned by the conduct of their former allies in the autumn of 1938. To a large

extent they seemed ready to be loyal and to co-operate. However, the influence of anti-Czech and Sudeten-German circles, supported by Himmler and the SS, was considerable. This influence was personified especially in the Sudeten leader Karl Hermann Frank, who had been appointed my State Secretary at Himmler's instigation. I had the greatest difficulty with him from the very beginning, because he favored a completely different policy toward the Czechs.

The office of the Reich Protector was still being built up. The head of the administration was an experienced administration official, State Secretary Von Burgsdorff, who was examined here. Under him were the various departments, which were built up directly by the Berlin ministries.

In the provincial administration German "Oberlandräte" were appointed as supervisory officers for each Czech district. They were appointed by the Reich Ministry of the Interior.

DR. VON LÜDINGHAUSEN: To whom were the Police subordinate?

VON NEURATH: The police force was completely independent of my office. It was directly under the Reichsführer SS and Chief of the German Police; that is to say, Himmler.

Himmler appointed my own State Secretary Frank as Higher SS and Police Chief, who thus had a double position. Under Frank, in turn, was the commander of the Security Police. All police measures were ordered by Frank or directly by Himmler and the Reich Security Main Office without a request for my approval, without my even having been informed previously. From this fact resulted most of the difficulties with which I constantly had to struggle in Prague.

DR. VON LÜDINGHAUSEN: The treatment of the position of the Police in a Czechoslovakian report under Number USSR-60, which was submitted by the Prosecution, presents the matter in a somewhat different light. Do you adhere to the description which you have just given?

VON NEURATH: Yes, absolutely.

DR. VON LÜDINGHAUSEN: You were informed of police measures only afterward, but were not asked for your approval beforehand?

VON NEURATH: Yes, and I was informed afterward only sporadically. I frequently learned only from the Czech Government, or through private persons, of incidents which I was not informed about by the Police even afterward; then I had to inquire of Frank.

DR. VON LÜDINGHAUSEN: Mr. President, I refer in this connection to the decree of 1 September 1939, which I have submitted verbatim as Number 149 in my Document Book 5, and I should like

to point out the following: This order is divided into two completely separate sections. Part I concerns the building up of the administration of the Reich Protector; and Part II, completely separated therefrom, deals with the establishment of the German Security Police, which is directly under the Reichsführer SS and Chief of the German Police. Already this external form of the order, this ostentatious separation of the two administrative branches, if I may express it in that way, proves that the Police and the police power were only under Himmler or under his Berlin authorities. This already emphasized the fact that the Reich Protector could exert no influence on them. This is the great tragedy of Herr Von Neurath's activities as Reich Protector. Matters are automatically charged against him for which he never can and never did take the responsibility. The Prosecution refers particularly to Paragraph 13 in this order, which mentions administrative measures according to which the Reich Protector, and the Reichsführer SS in agreement with the former, can take administrative measures necessary for the maintenance of security and public order in the Protectorate even beyond the limits determined for this purpose.

What does this mean?

VON NEURATH: I do not know what this order means by "administrative measures." It seems to me to be a very general order, presumably referring to the issuing of general instructions. At any rate, as long as I was in Prague, neither I nor the Reichsführer SS made any use of this power. Arrests were all made without informing me previously, on the basis of Paragraph 11 of the order which has just been read, and which does not in any way subordinate the Police in the Protectorate to me.

DR. VON LÜDINGHAUSEN: Did Hitler not assure you, in Vienna, that you were to have full executive powers in the Protectorate, and that that would include the Police?

VON NEURATH: No; I have already mentioned that.

DR. VON LÜDINGHAUSEN: Did you attempt to change this situation and to obtain from Hitler control over the Police, or at least exert influence over the Police?

VON NEURATH: Yes. I repeatedly made representations to Hitler in connection with the recurring violations and excesses of the Police. He promised me repeatedly that he would investigate these circumstances, but nothing was changed. The influence of Himmler, who considered the Police throughout the Reich to be his own domain, was too powerful.

DR. VON LÜDINGHAUSEN: The Czechoslovakian report on which the Indictment is based, in addition to the Police Chief, also holds the Reich Protector until September 1941—that is you—

responsible for the terror acts of the Gestapo. On the basis of the statements which you have just made, do you assume such responsibility to any extent?

VON NEURATH: No. I must deny it very emphatically. I have already explained what the real circumstances were, that I had no influence whatever.

DR. VON LÜDINGHAUSEN: I should like to quote two or three sentences in this connection from Document 153 in my Document Book 5, which consist of minutes from the examination of former State Secretary Frank by the Czechoslovakian delegation on 30 May 1945. These minutes from Frank's testimony say:

> "Neither the Reich Protector nor I myself was responsible for the actions of the Police. The highest responsibility was with Heinrich Himmler as Chief of the German Police. The Gestapo received its instructions directly from Berlin, either from Hitler himself or from the Reich Security Main Office."

By your presence in Prague could you actually do anything in practice to modify at least the worst measures inflicted by the Police or the Gestapo, or to minimize the most severe effects afterward? Will you please describe how you intervened and how you attempted to influence Frank in these matters?

VON NEURATH: I received continual requests from President Hacha, the Czech Government, and private persons. My office was for the most part busy working on these cases. I had every request presented to me personally, and in all cases in which intervention was at all justified, I had Frank or the commander of the Security Police report to me and tried to influence them in favor of releasing the arrested person. It was, however, an incessant struggle with Frank and the Police, although it was successful in many cases. In the course of time many hundreds of persons who had been arrested were released at my instigation. In addition many sentences were mitigated with respect to postal communication, sending of food, and so forth.

DR. VON LÜDINGHAUSEN: Soon after you took office did you not prevent the arrest and subjection to so-called atonement measures of the members of the families remaining in Prague of the Ministers Netschas and Feierabend, who had fled abroad?

VON NEURATH: Yes, that is right. Frank had ordered the arrest of the members of the families of these two ministers. When I learned about it I induced him to desist from taking this step.

DR. VON LÜDINGHAUSEN: Mr. President, may I make a suggestion to break off now, because this section is finished and I come now to individual questions?

[A recess was taken.]

DR. VON LÜDINGHAUSEN: Now, first of all, I should like to refer to individual police measures for which you have been held responsible to a greater or lesser degree by the Prosecution. Were there many arrests of Czechoslovak nationals already in the summer of 1939?

VON NEURATH: No; the activity of the Police in the summer of 1939 was slight, and I hoped that it would be possible to restrict these police measures increasingly.

DR. VON LÜDINGHAUSEN: The Czechoslovakian Indictment, under USSR-60, in Appendix Number 6, Supplement 1, submits a proclamation which you, as Reich Protector, issued in August 1939, that is, just prior to the outbreak of the war. This is a proclamation which was to serve as a warning to the people of the Protectorate against acts of sabotage. I shall have this proclamation submitted to you at this point.

I should like you to comment on it. This appendix is attached to the Document USSR-60 as Appendix 1. The proclamation, which I have just had given to the defendant, reads as follows—if I may, with the permission of the Tribunal, read the most important part:

"1.) Each act of sabotage against the interests of the Greater German Reich, against German administration in the Protectorate, and against the German Wehrmacht will be prosecuted with unrelenting harshness, and will be punished most severely.

"2.) By sabotage as described in Paragraph 1, is meant all disturbances of the public and economic life, particularly the damaging of essential installations such as railroads, telephones, and so forth, lines of communication, waterworks, electrical works, gas works, and factories, as well as the hoarding of consumer goods, raising of prices, and the spreading of rumors by word or in writing.

"3.) The population must observe all special directives of the organs of the Reich working in the Protectorate such as have been published or such as will be published in the future. Refusal to obey or acting against any organs of the Reich will be considered as sabotage and punished accordingly. Responsibility for all acts of sabotage will be placed not only on the person who is committing the act, but rather on the entire Czechoslovakian population.

"I expect under all circumstances that the Czechoslovakian population, through a loyal, peaceful, and quiet demeanor, will prove themselves worthy of the autonomy which the Führer has guaranteed to the countries of Bohemia and Moravia."

Will you please comment on this?

VON NEURATH: I cannot imagine from what point of view the release of this public warning against sabotage can be used as the basis of an accusation against me. At this period of the greatest political tension, it was to be feared that radical elements would exploit the situation in order to commit acts of sabotage which could damage public services. In my opinion, this would not have been tolerated in any state at such a time without severe punishment. Through this warning we wanted to try to eliminate all incentives for committing acts of sabotage. Moreover, as far as I recall, this warning had the desired effect and practically no acts of sabotage actually took place. Besides, the threat of special punishment is not contained in this warning at all, but it refers only to provisions for severe punishment which already existed.

DR. VON LÜDINGHAUSEN: Shortly after the publication of this proclamation the war broke out. What was your attitude toward this war?

VON NEURATH: I considered this war the greatest piece of stupidity, for on the basis of my knowledge of British psychology and politics, I was convinced that England would keep her promise to Poland, and that therewith the war against England and France would also commence, in which the United States, with its tremendous production capacity, would stand behind these powers. That was clear to me from all the statements made by President Roosevelt before the beginning of the war. I also rejected and condemned the rather reckless beginning of this war because of my ethical convictions and my ideology.

DR. VON LÜDINGHAUSEN: For what reasons did you remain in your office instead of resigning?

VON NEURATH: I told myself that during the war, on the one hand, the Czechs would try, if not to throw off German rule, at least to disturb, either openly or secretly, through uprisings, sabotage, *et cetera,* the military measures of the Armed Forces taken in the Protectorate and that on the other hand due to this the severest measures would be taken against the population on the part of Germany, which would cause the Police, above all the Gestapo, to proceed with all kinds of terrorist acts. Through my remaining in office I wanted to prevent both of these things, and I also wanted to prevent a harsher treatment of the Czech population by the policy of conciliation and compromise which I followed.

To lay down my office at a moment like that would have been desertion. But, on the other hand, I believed that in a war in which the existence of the German people was at stake I could not, as a German—which I am, with full devotion—refuse my services and my knowledge. After all, it was not a question of Hitler or the Nazi regime, but rather of my people and their existence.

DR. VON LÜDINGHAUSEN: Therefore, by remaining in office you did not wish to indicate your approval of this war, which was brought about by Hitler?

VON NEURATH: Never. For it was an accomplished fact, to which I had not contributed; and I told Hitler my attitude and my opinion about the insanity of the war quite clearly. But I would have considered myself a traitor to the German and Czech peoples if, in this hour of need, I had abandoned the difficult task which I had undertaken for the benefit and welfare of both peoples, as long as I could even in a restricted measure live up to my task. I do not believe that any decent person would have acted differently, for, above all, and beyond personal wishes, there is one's duty to one's own people.

DR. VON LÜDINGHAUSEN: On the day of the outbreak of the war, in the Protectorate as well as everywhere in the Reich, so-called preventive measures were taken in the form of numerous arrests, involving at any rate more than a thousand persons, especially representatives of the intelligentsia insofar as they were considered politically unreliable.

Were you advised of these arrests in advance, as should have been done according to Paragraph 11 of the order of 1 September 1939, which has been quoted earlier?

VON NEURATH: No, not even afterward. I learned of these arrests through President Hacha.

DR. VON LÜDINGHAUSEN: What did you have done then?

VON NEURATH: First of all, I had Frank come to me and remonstrated with him. He said that he had not been informed either, and that this was a general police preventive measure.

DR. VON LÜDINGHAUSEN: Which came directly from Berlin?

VON NEURATH: Yes, which Himmler had ordered the Gestapo and SD to take.

DR. VON LÜDINGHAUSEN: Did you now try to have the people liberated who had been arrested, and who had for the most part been taken into the Reich?

VON NEURATH: Yes. I constantly exerted pressure on Frank, and on Himmler and Heydrich in Berlin, to that end.

DR. VON LÜDINGHAUSEN: And how successful were your efforts?

VON NEURATH: Hundreds of these people who had been arrested—whose names I had to get from the Czechs with great difficulty as the German Police refused to give me these names—were released in the course of time.

DR. VON LÜDINGHAUSEN: On 28 October 1939 public demonstrations occured in Prague for the first time on the occasion of the Czech Independence Day. On this occasion, some of the demonstrators and some policemen were either killed or injured, for the Police took rather strong measures against the people demonstrating.

Regarding these police measures before, during, and after this demonstration, did you have knowledge of them and did you endorse them?

VON NEURATH: At that time I was not in Prague, and only on 29 October did Frank inform me over the telephone about the unrest. The details I did not learn until I returned on 30 or 31 October. I told Frank that through his personal interference on the streets and through the use of the SS he had intensified the tumult instead of leaving the restoration of order to the Czech police.

DR. VON LÜDINGHAUSEN: Frank sent a report dealing with these cases of unrest to Berlin, which he mentioned when he was interrogated by the Czech delegation on 5 May 1945.

I have submitted an excerpt from the record of this interrogation which will be found in my Document Book 5 under Number 152. I should like to quote a few sentences from this report:

> "This was the first time that the population demonstrated publicly and that these slogans"—that were mentioned earlier—"were heard in the open. This matter was therefore taken seriously, and I personally reported to Berlin about all incidents. I should like to say that I was an eyewitness to these demonstrations and that I had the impression that they were of a dangerous nature. In the report which I sent to Berlin I stated specifically that these were the first demonstrations, and that, therefore, special importance was to be attached to them since they took place in the open street. I asked for directives which I received immediately from the Führer's headquarters. These directives were sent from Berlin direct to the Security Police and I received knowledge of their contents. The entire program was carried through directly by the Police."

Did you have knowledge of this report of Frank's, and the measures which are mentioned therein, before it was sent off, or afterward?

VON NEURATH: No. This report was completely unknown to me until now in Nuremberg; but Frank always reported directly to Berlin. Apart from that, I was never of the opinion that this demonstration, which was carried on mostly by young people, should be considered especially important or that it should necessitate special police measures.

DR. VON LÜDINGHAUSEN: At the funeral on 15 November of one of the students who was killed on 28 October there were fresh demonstrations in Prague, in the course of which numerous students were shot, others arrested, and the universities closed. What do you know about these incidents?

VON NEURATH: When this student, Opletal, who was injured in the fracas, died of his wounds, the Police, in order to prevent new demonstrations, prohibited the participation of students at the funeral, which was to take place on 15 November. Despite this, crowds collected, and when the Police attempted to disperse them, renewed demonstrations and shootings resulted. When this was reported to Hitler by Frank, Hitler was greatly enraged and called me, Frank, and the Military Plenipotentiary, General Friderici, to a conference to be held in Berlin. Hitler had also asked the Czech Minister, Chvalkovsky, the former Foreign Minister, to be present at this conference. Hitler was in a rage. I tried to calm him, but despite that he made serious charges against the Czech Minister and gave him instructions to tell the Czech Government that if such events should recur he would take the most severe measures against the people who were disturbing the peace and, furthermore, that he would hold the entire Czech Government liable. The language used by Hitler was quite uncontrolled and the proceeding was extremely distressing to us who were listening. After the Czech Minister had left, we stayed with Hitler for a few minutes longer. He asked me how long I would remain in Berlin and I told him 1 to 2 days. Then we were asked to dinner, but there was no further discussion about these incidents. Hitler asked State Secretary Frank to come back later. Hitler said no word about the shooting of the leaders of the demonstration or taking the students to concentration camps; neither did he mention the closing of the universities.

When, toward evening, I asked after the pilot of my airplane in order to give him instructions, I was told at the airport that he had flown back to Prague in my airplane together with Frank. The following day I returned to Prague by train and only then did I learn that Hitler had decreed the closing of all Czech universities for 3 years, the arrest of some 1,200 students and their transfer to a concentration camp, as well as the shooting of the ringleaders of the demonstration. At the same time a proclamation, which was signed with my name, was submitted to me in which these orders were announced which had been published in the press and had been posted publicly. I had Frank summoned immediately and challenged him with these unheard-of things which had taken place without my knowledge. He referred to a specific decree of Hitler's. I had not even seen this proclamation. My name had been affixed to it illegally by Frank. Even as my deputy, he was not justified in

doing this; but later, through an official in my office, I learned that Frank often misused my name in this way. If I had had any advance knowledge of these decrees of Hitler—and, of course, he had the opportunity to reach me by telephone in Berlin—I would naturally have objected to these decrees and at that time would have asked to resign.

Immediately I tried to have these students released. I tried with Hitler personally and tried going to Himmler, and gradually most of them were released, I believe more than 800 in all, the last of their number being released in the summer of 1941.

Shortly after this incident, when I was again present in Berlin, I complained bitterly to Hitler about his conduct toward me. He evaded an answer, as far as I recall, but he promised me that the students would be released very soon and that the Czech universities would be reopened after 1 year. Neither of these promises did he keep.

DR. VON LÜDINGHAUSEN: I should like to read to you the answer of Legation Counsellor Von Holleben, who at that time participated in the Protectorate Government, to Question 21 of his interrogatory of 18 May 1946. This interrogatory may be found under Number 158 in my Document Book 5. The answer of Herr Von Holleben reads as follows:

"The student riots of October and November 1939 were a turning point in the history of the Protectorate. I cannot give you a chronological repetition of the events from memory. However, I can state the following: The manifestations which took place on 28 October 1939, on the occasion of the twentieth anniversary of the constitution of the Czechoslovak State, in Prague and Brno, mainly by the academic youth, were to be expected. Therefore, Herr Von Neurath, previous to 28 October 1939, issued orders to ignore them quietly as far as possible and only to interfere when they assumed the character of a serious danger to public peace and safety. Because of noncompliance with this order the greater part, if not the whole of the disaster resulted. Immediately after the conference with Hitler Frank returned to Prague. The office of the Reich Protector, who himself was still in Berlin, had only received knowledge of the measures taken against the students on 15 and 16 November on the following morning, partly through the numerous appeals which the members of the families of the arrested students made at the office of Herr Von Neurath. In my opinion Herr Von Neurath did not learn of these sanctions against students until after they had taken place. I personally did not report this matter to him, and I cannot tell you just who did report to Von Neurath

on this matter. It is my firm conviction that the proclamation in question, addressed to the Czech people, was given out without the knowledge of Herr Von Neurath, and through misuse of his name. I remember distinctly that because of this he had heated arguments with Frank. At that time he remained in office, for he believed that by remaining he could prevent much more disaster. He considered the closing of the universities an unwarranted intervention in the life of the Czech people. He tried with all the means at his disposal to have the Czech university teachers and students, who had been taken to German concentration camps, liberated subsequently, and until such liberation, to have them accommodated in special sections."

In this connection, I should also like to submit to the Tribunal an affidavit which I just received a few days ago from the secretary of Herr Von Neurath at that time, Fräulein Irene Friedrich. This is dated 6 June 1946, and from it we can see quite clearly that at the time this announcement was issued and published, Herr Von Neurath had not yet returned from Berlin, and therefore that it was quite impossible for Herr Von Neurath to have had knowledge of this proclamation.

I should like to ask the Tribunal to take judicial notice of this affidavit.

I should also like to refer . . .

THE PRESIDENT: What is the number of the affidavit?

DR. VON LÜDINGHAUSEN: Number 159, Mr. President. I should like to refer further to a document of the Czech Prosecution: Appendix 5 of Supplement Number 1, a memorandum of Herr Von Neurath dated 26 March 1940 which has been submitted. This deals with the discussion with President Hacha regarding the arrested students and also shows that Herr Von Neurath tried, and kept on trying, to have these students released.

THE PRESIDENT: Did you give us the number for that? You said Document Book 5.

DR. VON LÜDINGHAUSEN: No, that is attached to the Czech report, USSR-60, and is not in my document book. I was only referring to that.

Apart from these two actions which were decreed by Hitler personally, did other arrests take place on a rather large scale during the time of your office?

VON NEURATH: No, but single instances of arrest did take place recurrently, and I continually intervened anew to have them investigated and perhaps rescinded, at the suggestion of the Czech Government and private people.

DR. VON LÜDINGHAUSEN: Now I should like to read a few more sentences from the document of the Czech Prosecution, USSR-60, to be found on Page 59 of the English text. I quote:

> "Immediately after the occupation representatives of the 'Sokol' (Falcon) athletic association, which had 1 million members, joined a movement for the liberation of the country; this included the underground movement at home and the movement abroad. The idea of the 'Sokol' united the army members abroad and gave strength and enthusiasm even in the hardest time. This was true at home to an even larger extent. The Gestapo was aware of this danger, and therefore proceeded with the utmost severity. In the beginning, their measures were moderate, but when they realized the firm resolve of the 'Sokols,' they began to use force. The first arrests took place on the day of the occupation of Czechoslovakia, and a further large number of arrests on 1 September 1939. Then extensive arrests of single individuals and of organizations followed."

Will you please comment on this.

VON NEURATH: The "Sokol" was the most dangerous organization hostile to the State in the Protectorate. The extent of its activity can be seen especially from the sentences of the Czech Indictment which have just been read. It was taken for granted that machinations of this kind could not be tolerated, especially in war, and the report itself characterizes the first police measures as "still moderate." I am convinced that in no other country would such intrigues (underground movements) have been treated any differently. In such cases of undoubted high treason or cases of sabotage, I could not possibly intervene for the people responsible, and moreover, the Czech Government quite understood this.

DR. VON LÜDINGHAUSEN: The Czech report further mentions shootings under martial law. Did such shootings occur during your period of office?

VON NEURATH: No, apart from the case of the nine students which has already been mentioned I know of no shootings under martial law during my time in office.

DR. VON LÜDINGHAUSEN: Did Frank, aside from his disastrous activity as Higher SS and Police Leader, as your State Secretary try to use his influence in the policy and administration of the Protectorate, and did you work closely with him in that respect?

VON NEURATH: Frank represented one-sided, radical German interests. That was the old Sudeten-German hatred of the Czechs. I repeatedly curbed these tendencies, but as my representative he, in practice, took part in the general policy and in the administration.

DR. VON LÜDINGHAUSEN: What was your personal relationship to Frank?

VON NEURATH: From the very beginning it was bad because of the fact that he was so radical, and beyond that, I quite soon realized that very frequently he did not tell me the truth.

DR. VON LÜDINGHAUSEN: What was your personal and official relationship to President Hacha and to the Czech Government?

VON NEURATH: In general, good. The Czech Government at that time was convinced of the fact that my intentions for fair and just treatment of the Czech population were quite sincere, and that I did everything within my power to realize my intentions. On the other hand, I fully understood and recognized in every respect the efforts of the Czech Government to represent primarily the interests of the people. As to my personal relationship to President Hacha, I might go so far as to say it was very good. I always tried to facilitate Mr. Hacha's difficult task as far as I could, for I knew that he, too, through his assumption of the post of President and through his remaining in office was making a great personal sacrifice. He and the members of the Government were always invited to all occasions which did not have a purely German character, and were treated with distinction in accordance with their rank.

DR. VON LÜDINGHAUSEN: What was the manner of work of your office in Prague? Were you quite independent in your work or were you in your office bound by directives from Berlin?

VON NEURATH: My answer in this respect is a rather tedious matter. The fundamentals of policy and the administration of the departments were determined in Berlin as far as they applied to the Protectorate, that is, by Hitler himself or by department ministers. My field was the supervision of the execution and application of these principles as they applied to the Protectorate, always considering the special circumstances which arose from the ethical, cultural, and economic structure of the country. Obviously, above all in war, the Protectorate, which was situated in the center of the Reich, could not be treated as an independent unit but had to be incorporated into the general pattern. As I have already stated, the various branches of my authority had been established by the central offices in Berlin. The officials of these branches, therefore, from the beginning, had certain practical connections with their parent ministries, even though they were later subordinate to me. The individual heads of the branches received their directives in regard to specific problems direct from their department ministries in Berlin. Then those directives were submitted to Under State Secretary Von Burgsdorff, who was the head of the administration,

or, if they were very fundamental matters, also to me. The carrying-out of these measures in the Protectorate was in that way discussed, and subsequently settled with the Czech Minister. Thus were established the decrees and basic directives which were signed by me or by my deputy. Frequently these dealt with the introduction of legal or administrative measures which already existed in the Reich, or which were newly issued in the Reich. Apart from that, a series of directives applying to the Protectorate were issued directly by the competent Berlin ministries. The Reich Minister of the Interior had been designated as the so-called central agency for the release of these Reich directives.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should like to refer to the following documents to be found in my Document Book 5: Documents Number 145, a decree from the Führer and Reich Chancellor dealing with the Protectorate of Bohemia and Moravia, supplementing the decree of 22 March 1939; Number 146, extracts from basic regulations applying to the Protectorate, dealing with commercial transactions with the Protectorate, dated 28 March 1939; Number 147, a directive as to the administration of criminal justice in the Protectorate, dated 14 April 1939; Number 148, a directive dealing with statutory law in the Protectorate, dated 7 June 1939; and I should like to refer to a document which has already been submitted, Number 149, the regulation dealing with the structure of the administration and the German Security Police. In this connection I should like to remark that all these directives were signed, not by the Reich Protector, but rather by the competent Reich department minister, and sometimes also by Reich Marshal Göring as Chairman of the Reich Defense Council. The legal basis for the authority of the Protector is the decree by the Führer and Reich Chancellor in regard to the Protectorate of Bohemia and Moravia dated 16 March 1939, signed by Hitler, Frick . . .

THE PRESIDENT: Will you ask the defendant to clear up what his concern was with these decrees of the Reichsführer and of the Defendant Göring.

DR. VON LÜDINGHAUSEN: No, Mr. President, I wanted to show that he had nothing to do with these matters but that he was obliged to carry them out. According to the decree which put him in office it was his duty to supervise these measures, which were issued by agencies in the Reich. That was what I wanted to prove, that all these directives did not originate with him, but rather with the Reichsführer.

THE PRESIDENT: Is that right, Defendant?

VON NEURATH: Yes. I should like to remark that I was chiefly concerned with seeing that these matters were duly published in

the Protectorate, and then having my agencies supervise their execution.

DR. VON LÜDINGHAUSEN: How far did the autonomy of the Protectorate reach in all these decisions?

VON NEURATH: The extent of autonomy was not clearly defined. Basically the Protectorate was autonomous, and it was administered by its own Czech authorities and Czech officials. But in the course of time considerable restrictions were placed on this state of autonomy, as was provided for in the decree which you have just read. The introduction of these restrictions was regarded as practical by the Reich Government and resulted, in part, from general tendencies toward centralization in Berlin, but it was also necessitated to a large extent by the general political development in view of the war and of the so-called totalization of the war effort. I constantly objected to these restrictions insofar as in my opinion they did not correspond with the vital needs of the Protectorate and of its people.

DR. VON LÜDINGHAUSEN: Mr. President, in this connection I should like to refer to Article 3 of the order which has already been quoted, a decree issued by the Führer and Reich Chancellor dealing with the Protectorate of Bohemia and Moravia; Number 144 of my Document Book 5. This reads:

"1.) The Protectorate of Bohemia and Moravia is autonomous and administers itself.

"2.) Its sovereign rights as a Protectorate are exercised on the basis of the political, military, and economic interests of the Reich.

"3.) These sovereign rights are upheld by its own organizations, its own authorities, and with its own officials."

How about the Armed Forces offices in the Protectorate? Were you connected with them?

VON NEURATH: No, they were subordinate to a special Plenipotentiary of the Armed Forces who was to keep me advised about the basic military questions.

DR. VON LÜDINGHAUSEN: Now, I should like to turn to specific points which are mentioned in the Czech report, USSR-60, and of which you are accused.

To which extent were you competent for administering criminal justice in the Protectorate? Specifically, did you have to confirm death sentences against the Czechs?

VON NEURATH: The criminal justice of the German courts was under the jurisdiction of the Ministry of Justice in Berlin. The Czech courts were not under my jurisdiction at all. I was concerned only

with decisions in cases of appeals for clemency against verdicts of German courts in the Protectorate, which were submitted to me by the President of the Provincial Court of Appeal (Oberlandesgericht).

These, in special cases, might also apply to Czechs. However, they did not concern political crimes. Political proceedings against Czechs were, as far as I recall, handled by the Peoples' Court (Volksgerichtshof) in Berlin, insofar as they dealt with high treason. As far as I know, in these proceedings against Czechs the same basic principles were applied as against Germans.

DR. VON LÜDINGHAUSEN: Did you have the right to grant pardon when the Peoples' Court gave decisions against Czechs?

VON NEURATH: No, I had no possibility of influence, and I did not have the right to pardon.

DR. VON LÜDINGHAUSEN: In your time did you know anything about the activity of special courts in the Protectorate?

VON NEURATH: No, I cannot recall that special courts were active during the time I was there. In my opinion, this could apply only to German courts for the prosecution of specific offenses, for example, violations of radio regulations; such courts were established at the beginning of the war in the Reich. However, these courts were not under my jurisdiction, but directly subordinate to the Reich Minister of Justice. He appointed the judges, gave them their directives, and the judges reported directly to him. I had no opportunity of using influence in any way.

DR. VON LÜDINGHAUSEN: Regarding the activity of these special courts, I should like to quote one sentence from the Czech report, USSR-60. This may be found on Page 106 of the German text and Page 92 of the English text. It deals with orders and decrees that were to be applied by these special courts. I quote:

> "A large number of these orders and decrees violate principles that all civilized countries consider irrevocable."

Is that report correct?

VON NEURATH: Yes, in this case I agree entirely with the Czech Prosecution report. But I should imagine that in the latest developments this principle has been considerably attenuated even among civilized peoples.

DR. VON LÜDINGHAUSEN: Now I should like to know something about the alleged plans dealing with the Germanization of the areas in the Protectorate inhabited by Czechs. You said previously that, when you assumed office, you knew nothing about such plans. Who later revealed the pattern of these plans to you?

VON NEURATH: These plans in part originated with Sudeten-German circles, but in the main they could be traced back to the

organizations of Himmler and also to suggestions on the part of the Gauleiter of Lower Danube.

DR. VON LÜDINGHAUSEN: In regard to this problem of alleged efforts at Germanization, I should like to read to you a report to the OKW dated 15 October 1940 by the Armed Forces Plenipotentiary General in the Protectorate, General Friderici. This is the document which has been submitted by the Prosecution under Document Number 862-PS, Exhibit Number USA-313; and it is concerned with statements about basic policy pursued in the Protectorate, which State Secretary Frank made in an official discussion with your office. In this document Frank mentions a memorandum in which, after careful investigation, the Reich Protector had defined his attitude toward the various plans of numerous offices. He mentions three possibilities of solution to the question of the possible Germanization of the Czech territory. You probably know this document and I do not believe that it is necessary for me to read it. What do you know about this memorandum? Did you compose it yourself? Tell us what you have to say about it.

VON NEURATH: The memorandum refers to the proposals which I just mentioned on the part of various Party offices for the possible resettlement of the Czechs. I objected to this plan from the very beginning as being quite absurd and incapable of execution. Frank, who agreed with me on this point, therefore at my direction drew up this memorandum which you have just mentioned, in which the radical measures of the SS and of the Party were rejected and in which the so-called gradual assimilation was considered as the only possible solution of this problem. In this way I wanted to postpone the matter and thwart the plans of the SS. Since these plans for resettlement had already been put by Himmler before the Führer, I required a rather stringent directive from the latter in order to quash them. However, for tactical reasons I had to make some sort of proposal: Hence, that of the policy of assimilation, because with this suggestion the matter was in practice postponed. In order to forestall countermeasures by the SS and Himmler, I reported to the Führer personally about the matter and asked him to issue a stringent directive, which he did. Thus the matter was buried and was not taken up again. The sentence found in this memorandum to the effect that "... Germanization would have to be carried out for a number of years by the office of the Reich Protector..." means specifically that the SS could no longer interfere in this matter. The Reich Protector alone was to be the competent authority, and the Reich Protector did nothing. Moreover, the statement of General Friderici, who was equally opposed to radical fantasy, to the effect that "... as far as the Armed Forces were concerned there would be no important consequences, since

he had always adhered to this concept . . ." goes to show the same. If after this report Frank said that ". . . the elements which were working contrary to the intended Germanization would have to be handled roughly and would have to be eliminated . . ." these were merely his words and the type of language that was used in speeches of that kind. Actually, as I have said, nothing further was done to assimilate the people.

DR. VON LÜDINGHAUSEN: Mr. President, I now ask your permission to quote a few sentences from the affidavit that we have mentioned, which was made by Baroness Ritter, Number 3 in my Document Book 1. They are found on Page 18. It says there:

> "With regard to the plans for the Germanization, that is, the gradual assimilation, of the Czechs, Neurath stated as follows in a letter:
>
> " 'Quite aside from the sensible point of view, the people who are simply to be resettled arouse pity in one's soul. However, I believe I have discovered a way now to prevent the disaster. Time won is everything won, and frequently to postpone a thing is to do away with it!' "

Mr. President, if it is permissible for me to make a suggestion, I would ask that we stop now, since the problem of Germanization is now completed.

THE PRESIDENT: How long do you think you are going to be? You have already been a day and a half.

DR. VON LÜDINGHAUSEN: Mr. President, the Indictment contained in the Czech report is not well substantiated and not very concrete, so that I must mention each individual point contained therein. I have approximately 20 more questions.

THE PRESIDENT: How long do you think it will take?

DR. VON LÜDINGHAUSEN: One hour.

THE PRESIDENT: Well, the Tribunal will expect you to conclude in an hour.

DR. VON LÜDINGHAUSEN: I hope so, Mr. President.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 25 June 1946 at 1000 hours.]